

# Public Utilities

*FORTNIGHTLY*

Volume XLIII No. 4



**PUBLIC UTILITY INVESTORS DESERVE  
SQUARE DEAL**

*By Willford I. King*

« »

**An Editor Looks at the "Employees' Magazine"**

*By J. Oliver Martin*

« »

**Special Rate Problems of the Bus-transit Utilities**

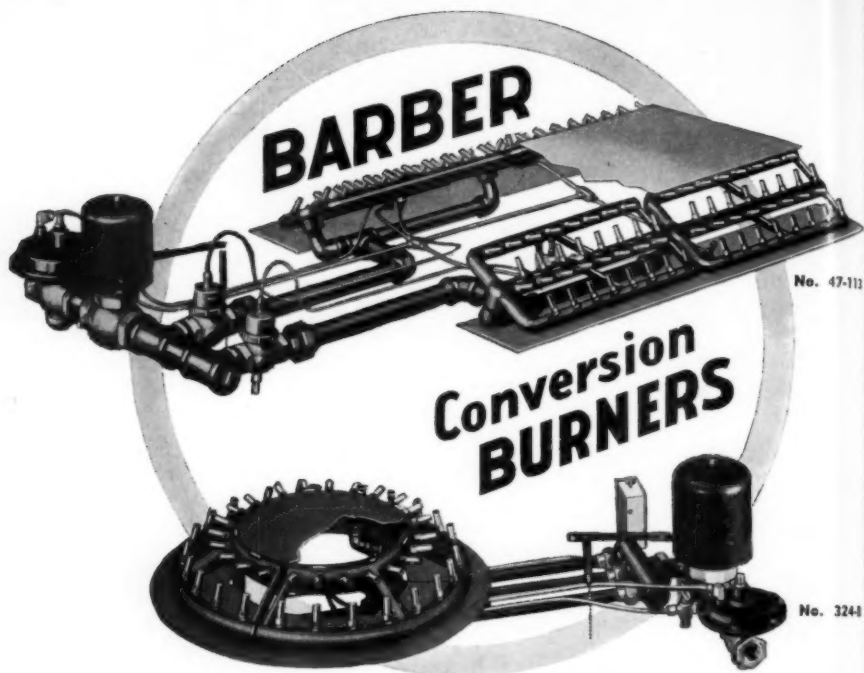
*By John F. Curtin*

« »

**Open Season on River Valley Authorities**

*By Gerald M. Whitright*

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**PERFECTED DESIGN:** These are no experimental burners but tried and tested in many thousands of installations over a thirty year period. That means trouble-free operation, fewer complaints, returns, and service charges.

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# Public Utilities

## FORTNIGHTLY

VOLUME XLIII

FEBRUARY 17, 1949

NUMBER 4



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## Keeping stainless steel STAINLESS

... a typical problem in fabricating alloy piping

● Heat a piece of stainless steel pipe to bend it and right away you're up to your ears in metallurgical complications. To begin with, stainless steel isn't just one alloy. There are hundreds of different types of stainless steel, each selected for its resistance to corrosion or its stability at high temperatures. To maintain the metallurgical properties which dictate the choice of a particular alloy steel, you have to know the temperature range within which this steel may suffer excessive metallurgical changes. And you have to have specialized equipment to maintain the precise control necessary to avoid these hazards.

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# INTERNATIONAL TRUCKS

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## Pages with the Editors

**B**USINESS regulation, in the broadest sense, has been compared to a 3-legged stool. It involves the protection of the consuming public, protection of employees, and protection of the investor. In recent years the theory of government responsibility for all three seems to be undergoing a change.

PROTECTION of employee interests, through labor legislation, has been emphasized. Protection of the consuming public also has been emphasized—certainly in the case of public utility regulation. But the protection of the investors' interest from the encroachment of pressures from the other two groups has not been emphasized. The current theory of government seems to be that the investors can look out for themselves or, at any rate, must be satisfied with what happens to them (in the light of high taxes or controlled prices or wage demands), because such things happen by the will of the majority, functioning through official laws and regulations.

THE danger of this neglect of the investor interest is not superficially apparent. One might think offhand that if the investor is not satisfied with the deal



WILLFORD I. KING

he is getting in one enterprise, he can take his money some place else. But the actual result over the past decade seems to be a deficiency in the formation of risk capital for all new enterprise. The investor is retreating more and more to the shelter and relative security of tax-exempt government bonds and industry has had to expand more and more out of its own earnings. The obvious end of that road is controlled economy, if not outright nationalism.

**B**UT would even this shift bring an end to the pressure of the consuming public and of labor for an increasing share of industrial benefits? Dr. Charles O. Hardy, who at his death was chief economist of the joint congressional Committee on the Economic Budget, said that we can have a strong union movement and we can have full employment, and we can have control of inflation. But, said Dr. Hardy, we cannot have all three at once.

IN Great Britain, which is becoming the teacher to all the world on the economics of full employment under a managed economy, Sir Stafford Cripps gave an obvious hint at who is next in line for



J. OLIVER MARTIN

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being shortchanged on government protection—after the investor is disposed of. "It is most unfair," said Sir Stafford, "for those workers who think they can bring some particular pressure to bear upon society to demand increases which can only be at the cost of their fellow workers. . . . If such demands were generally indulged in, it would wreck all hope of our recovery."

THE opening article in this issue is a thoughtful analysis of what is necessary to give the public utility investor a square deal. It comes from the pen of DR. WILLFORD I. KING, professor emeritus of economics of New York University since 1945. DR. KING entered the teaching field as assistant professor of economics at the University of Wisconsin in 1910, and in addition to a dozen books and monographs on various aspects of economics has served as an economist for the National Bureau of Economic Research, president of the American Statistical Association, and president of the Scientific Investors, Inc. Since 1946 DR. KING also has been chairman of the Committee for Constitutional Government.

\* \* \* \*

JOHN F. CURTIN, whose article on "Special Rate Problems of the Bus-transit Utilities" begins on page 221, is a partner in the firm of Simpson & Curtin, nationally known transportation engineers of Philadelphia. A graduate of New York and Harvard universities, MR. CURTIN has served as transportation economist for the American Petroleum Institute and as planning engineer on design of the Pennsylvania turnpike, George Washington bridge, and Lincoln tunnel. During the war he was transportation engineer at the atomic bomb project at Oak Ridge, supervising a network of 850 busses and a commutation railroad between Oak Ridge and Knoxville.

\* \* \* \*

ONE of the best known and highly regarded editors of a utility employees' magazine is J. OLIVER MARTIN, better known to everyone in the great Chesapeake & Potomac Telephone organization as "J. O." It was in January, FEB. 17, 1949



JOHN F. CURTIN

1913, that MARTIN became assistant editor of *The Transmitter*, which is published for Chesapeake & Potomac employees. Prior to that he had performed clerical work for the New York Telephone Company. He was made editor of *The Transmitter* in 1918 and under his guidance *The Transmitter* has grown and developed into a slick-sheet paragon of all employee publications.

It naturally follows that MR. MARTIN has his own ideas of what should go in and what should be kept out of such publications, and how they might be best developed to reach the joint objective of both management and employee readers. His article should be profitable reading not only for executives and company officials who have anything to do with employee magazines, but those who even think they might go in for such activities. It will be readily seen that this matter is not so simple as it may appear, especially from the standpoint of management.

\* \* \* \*

IMPORTANT decisions, preprinted from *Public Utilities Reports*, may be found in the back of this number.

THE next number of this magazine will be out March 3rd.

*The Editors*



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# Coming IN THE NEXT ISSUE



## **WHAT MAKES A GOOD COLLEGE TRAINEE FOR THE UTILITIES?**

In these days of managerial emphasis on personnel training, the selection of college-bred recruits for utility service becomes a matter of primary importance. Robert N. McMurry, Chicago consultant, has analyzed the factors which might well be considered in making such selection.

## **COAL—THE UTILITIES' UTILITY**

With the electric industry surpassing the railroads as number one customer for the coal industry, new attention may well be given to this vital source of raw material supply so necessary to both gas and electric industries as to be called "The Utilities' Utility." Howard Carswell, with the Bituminous Coal Institute, has indicated the numerous points of mutual interest between the operating public utility industries and the utilities' utility.

## **WE ALL WANT TO BE LADIES AND GENTLEMEN**

If there were any doubt that courtesy training of utility employees pays dividends, this human interest story by President John E. McCarthy of the New York City Omnibus Corporation should remove it entirely. Here is a transit corporation which actually started to teach school in politeness—but in a new and different way—one which the bus drivers thoroughly enjoyed and practiced as alumni in their own self-interest.

## **WORK LOAD BALANCING FOR GAS UTILITIES**

The efficient dispatching of work crews by the modern gas utility, or for that matter any other utility, can mean the difference between a red or black balance in the operating expense account. Arthur Rohman, studying the Southern California Gas Company, shows how this utility made a new approach to this old problem and is cashing in on the results.

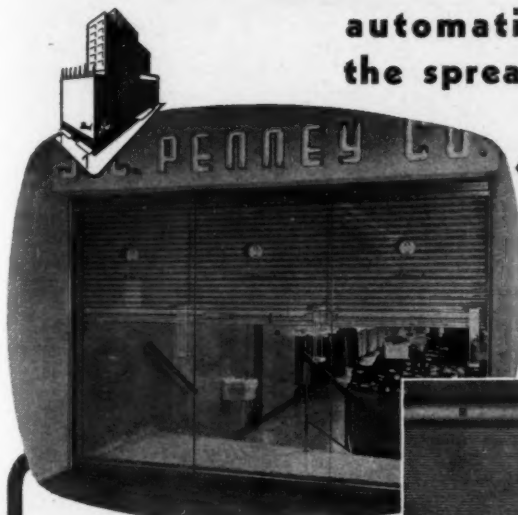


**Also . . .** *Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.*

# KINNEAR "AKBAR"

## Rolling Fire Doors

automatically block  
the spread of flames



These dependable, positive-action doors combine modern styling and fire protection at this entrance to Penney's in the smart, new Terrace Plaza Hotel Building in Cincinnati.



Outstanding structures here and abroad rely on Kinnear "Akbar" Rolling Fire Doors for *automatic* fire protection. These all-steel, fire-proof doors set up a "road block" against flame-spreading drafts. They *coil overhead* when not in use, but *promptly* seal off doorways, windows, and corridors at the threatening approach of fire. Positive closure is certain because Kinnear Rolling Fire Doors are *pushed* downward automatically by a strong auxiliary spring. They are *controlled* in downward speed by a special safety device, to avoid personal injury and to lessen floor impact. If raised after closure as an emergency exit, the doors are closed again automatically by the counterbalance spring.

Lack of fire-door protection has proved an important contributing factor to losses in major fires. Akbar Fire Doors are approved and labeled by Underwriters' Laboratories. In many cases these doors save enough in lower insurance rates to repay their cost in two or three years. Built to fit building openings of any size, they can be equipped for daily service use, with or without motor operation. When extra fire protection is not required, regular (non-labeled) Kinnear Rolling Doors are preferred for service use. Write for details.

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ROLLING DOORS



# Remarkable Remarks

"There never was in the world two opinions alike."

—MONTAIGNE

EVANS WOOLLEN, JR.  
*President, American Bankers  
Association.*

"[Government lending] is a one-way road to business and industrial monopoly, as well as to the completely socialized state."

RALPH E. FLANDERS  
*U. S. Senator from Vermont.*

"The government is looking for more pie to cut, and it must have more pie. But we are reaching the saturation point on the amount of pie there is to be cut."

WILLIAM P. LANE, JR.  
*Governor of Maryland.*

"The United States is a creature of the Constitution and cannot be the United States of America except as an indestructible union of indestructible states."

MAURICE DUPERREY  
*Paris industrialist.*

"All of those industries the [French] government nationalized were all paying dividends before. But now under the left-of-center régime they are all losing money."

JAMES D. MOONEY  
*President, Willys-Overland Motors.*

"The fantasy of high dollar profits is cloaking from general view the very dangerous state into which our economy has steadily moved on the inflation spiral."

EDITORIAL STATEMENT  
*The Journal of Commerce.*

"There is little doubt that reducing government spending which now constitutes such an important share of national income would serve as a restraint on prices."

EMERSON P. SCHMIDT  
*Chief economist, Chamber of  
Commerce of the United States.*

"An equitable excess profits tax is not only almost impossible to design and to administer, but is without equity as between the small and other stockholders, and so lacks moral sanction."

BEAUFORD H. JESTER  
*Governor of Texas.*

"There is a ready American-way solution to meeting our increasing demands for petroleum. It is not nationalization. It is utilization—utilization under our existing form of government and free enterprise."

DWIGHT D. EISENHOWER  
*President, Columbia University.*

"The Federal government has no right to take tax money out of our pockets and then give it back to us without some form of supervision. Therefore, I say they cannot give Federal money for support of higher education. For when Federal money comes into that field we are entering a dangerous situation."

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## Some interesting facts about bills !

The bills of these birds never change.

The peculiar bird's bill at the left is long and thin. The duck's bill is *always* sort of flat. The pelican's bill *always* has a pouch attached.

Each species retains the *same* distinctive bill—year after year.

*It's a far different story, however, with consumer's bills. As you so well know, some of them change. Some customers' bills may show a marked increase . . . or decrease . . . in kilowatt-hour usage over a short period of time.*

A current analysis of your bills, therefore, may disclose certain trends that will be of considerable value to you in planning your rate and promotional programs.

Many such bill analyses are compiled for utilities by the Recording and Statistical Corporation. The tabulations are made on specially designed electro-mechanical equipment. As many as 200,000 bills can be analyzed each day by trained personnel.

### FREE booklet for you

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## RECORDING AND STATISTICAL CORPORATION

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this accurate and economical method of compiling customers' usage data.

Write today for "The One Step Method of Bill Analysis." It may save you time and money in the months to come.



This Bill Frequency Analyzer—developed especially for utility usage data—automatically classifies and adds in 300 registers—in one step!

## REMARKABLE REMARKS—(Continued)

CHARLES SAWYER  
*Secretary of Commerce.*

"Business should face the future with confidence, determination, and hope. Let us not be afraid of shadows. Our shadows fall behind us when we face the light."

ALFRED P. SLOAN, JR.  
*President, Economic Club  
of New York.*

"It is difficult to believe that sustained high employment with rising living standards can evolve basically from the economic consequences of a great and destructive war."

ROBERT E. DINEEN  
*Superintendent of Insurance,  
New York State.*

"We're in favor of the continuation of private enterprise in the insurance business. It's up to us to demonstrate that there's no conceivable excuse for government to go into the insurance business."

WILLIAM O. DOUGLAS  
*Justice, U. S. Supreme Court.*

"American labor can help America understand that Europe under the political management of Socialists is not a continent turning Communist but a people struggling for things that are precious to men everywhere."

GERARD S. NOLLEN  
*Chairman, Bankers Life Company.*

"Unless effective action is taken during the coming years to curb the drift toward socialistic controls, our economy will deteriorate and private business management is likely to find its remaining freedom of action curtailed to a serious degree."

WILBUR J. BRONS  
*Columnist.*

"Of all claimants to the U. S. taxpayers' earnings and other resources, the Federal government is by far the hungriest. The citizen pays taxes to various subdivisions of state and local government, but by far the biggest and most worrisome bite is taken by Uncle Sam."

WILLIAM A. PATON  
*Professor, University of Michigan.*

"By a process of personifying business activities, using such expressions as capitalism and Wall Street epithets, and forgetting that the people who provide business with capital and who supervise business operations are ordinary folks, a sort of mysticism is developed that tends to obscure the real issue."

JOHN W. BRICKER  
*U. S. Senator from Ohio.*

"Are we faced with an irresistible rush to centralization—then state Socialism—then dictatorship? I feel resolutely it is time to find out—if we can. We are in no sense preserving our Federal system. Quite the contrary is true. If we have not already, we are rushing headlong toward its total abandonment."

EDITORIAL STATEMENT  
*The Washington Daily News.*

"The British House of Commons is about to give final approval to a bill permitting the government to own and operate saloons. We hope that kind of thing does not spread to the United States. Over here it could mean that the ordering of a bourbon and soda would require filling out a lengthy form in triplicate."

## For Heavy Duty Steam Generating Plants

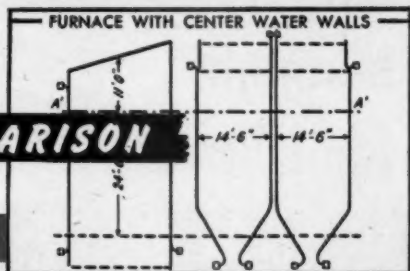
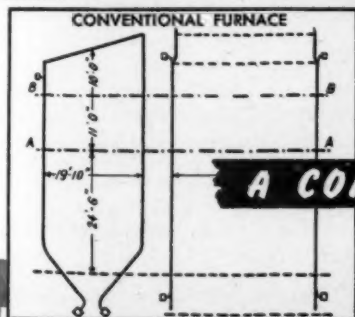
### Springfield's

#### DIVIDED FURNACE WITH CENTER WATER WALL

The divided furnace with a **CENTER WATER WALL\*** is a development first introduced by Springfield Boiler Co., for large central station installations. It has application where gas temperatures entering the first pass and superheater must be limited to prevent slagging. It enables a unit to stay on the line longer before shutting down for maintenance and cleaning. —

The divided furnace construction has been highly dependable and successful in service. It is adaptable to any kind of firing. Springfield offers it on both bent tube and straight tube boiler designs.

\*Patented



### A COMPARISON

These diagrams show how the center water wall made it possible for Springfield to reduce the height of furnace 22% on one 350,000 lb. pulverized coal fired unit in addition to securing some 90° lower temperature at the first pass. Ask for information on this and other modern installations.

## SPRINGFIELD BOILER CO.

1960 E. CAPITOL AVENUE

SPRINGFIELD, ILLINOIS

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Regardless of weather or roads, motor trucks pick up and deliver most motion picture film at night to make it available for the next day's showing.

## Midnight on Main Street

In the GMC line there are models for every public utilities hauling need . . . pickups, stakes, tractors, canopy express models and chassis units for special bodies . . . in a variety of wheelbases and a wide range of equipment options . . . with seven gasoline and two Diesel engines capable of handling gross combination weights from 4,600 to 90,000 pounds.

There are no alibis in the motion picture film delivery business. The "show must go on" seven days a week, twelve months a year . . . delay in the arrival of new film means disgruntled customers and lost revenue.

One film distributing firm operates 153 trucks more than 24,000 miles a day, serving 1215 theaters in nine states. And there are many more GMC trucks in this fleet than any other make.

Wherever reliable transport service is wanted . . . GMC's day-in-and-day-out dependability really pays off.

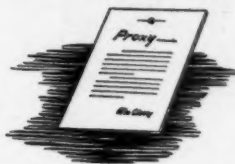
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**THE TRUCK OF VALUE**



**GASOLINE • DIESEL**

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## WHY ARE **YOU** IN THE UTILITIES BUSINESS?

**T**HE real reason you're in the utilities business is to make money . . . isn't it?

Well, do *you* know any better way to make money than to *save* money?



You can save *plenty* of money with trucks that fit your job . . . Dodge "Job-Rated" trucks.

It stands to reason that you waste money with a truck

that's too big for its job . . . and you're in for plenty of costly maintenance expense if your trucks are too small.

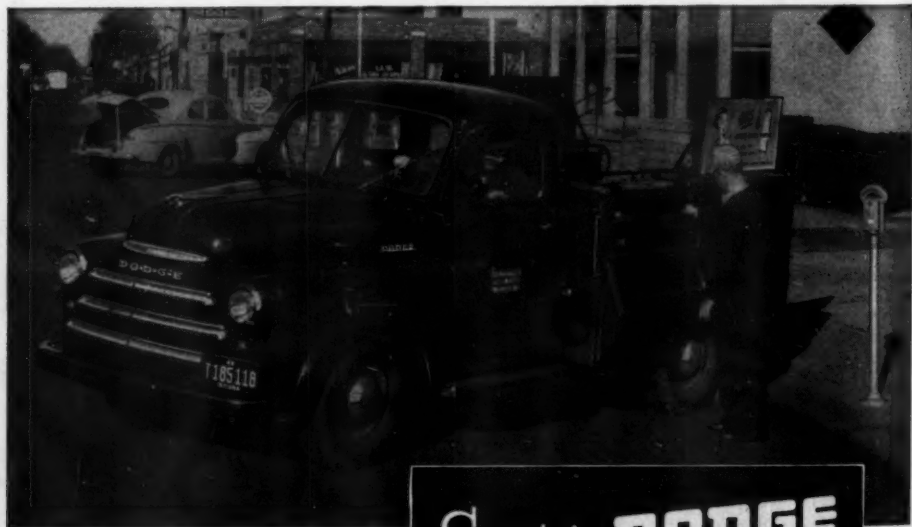
From 248 basic chassis models, your Dodge dealer can specify a



truck that will be "Job-Rated" exactly for your hauling job.

Such a truck will have the right one of seven great truck engines . . . for top efficiency and maximum economy. It will have the right units throughout . . . to haul *your* loads, over *your* roads.

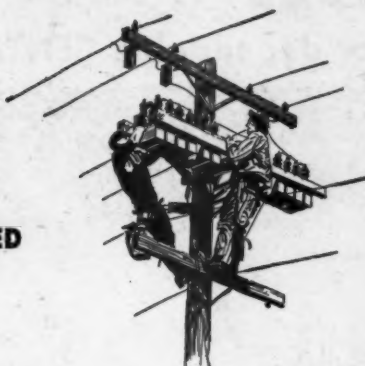
And remember . . . only Dodge builds "Job-Rated" trucks. Talk to your Dodge dealer!



For the good of your business—

Switch to **DODGE**  
"Job-Rated" **TRUCKS**

**CAN YOU BENEFIT  
FROM THESE SPECIALIZED  
Public Utility  
BANKING SERVICES?**



**B**Y "SPECIALIZED" banking services we mean simply this. Irving Trust has a separate Public Utilities Department. It is staffed with men whose practical experience qualifies them for service to the utility industry.

The sole function of this department is to help utilities with their particular financial problems and assist them in formulating their programs.

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is our Vice President in charge of this Department. Prominent in the top management of utility companies for over thirty years, he is thoroughly familiar with all phases of the industry.

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One of its many exclusive features is the famous **MANCHESTER POSITIVE PLATES** with their unique lead button construction. The buttons—rolled strips of corrugated soft lead—are pressed into holes of the lead-antimony grid. Forming action expands the buttons and locks them securely in place. Only a comparatively small portion of the total lead is formed initially into active material . . . the balance is available for gradual conversion in service.

**THE PERMANIZED NEGATIVE PLATES** are constructed of a lead-antimony grid, or framework, with a series of vertical ribs connected by short horizontal bars. Bars are flush with plate surface . . . extend only part way through the plate . . . are staggered on opposite sides. The active material . . . sponge lead . . . is formed of

vertical strips or ribbons that extend from top to bottom of the plate between the vertical ribs and is locked in place by the horizontal bars.

The new **EXIDE-MANCHEX BATTERY** has a high, 1 minute rating. It will provide up to 100% more capacity in the same given space.

**LONG LIFE...LOW MAINTENANCE COST...IMPROVED ELECTRICAL CHARACTERISTICS...INCREASED POWER (watt) OUTPUT PER UNIT OF SPACE...LESS WEIGHT PER AMPERE HOUR OUTPUT...ATTRACTIVE INSTALLATION**

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**THE ELECTRIC STORAGE BATTERY COMPANY, Philadelphia 32**

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# Utilities Almanack



## FEBRUARY



17	T <sup>a</sup>	† American Water Works Association, New Jersey Section, holds annual luncheon meeting, Newark, N. J., 1949.	
18	F	† Institute of Radio Engineers will hold national convention and exhibition, Mar. 7-10, 1949.	
19	S <sup>a</sup>	† National Electrical Manufacturers Association will hold winter convention, Chicago, Ill., Mar. 13-18, 1949.	☉
20	S	† National Association of Home Builders begins annual convention and exposition, Chicago, Ill., 1949.	
21	M	† National Council for Stream Improvement begins meeting, Chicago, Ill., 1949.	
22	T <sup>a</sup>	† American Concrete Institute begins forty-fifth annual convention, New York, N. Y., 1949.	
23	W	† Kentucky Independent Telephone Association will hold annual convention, Lexington, Ky., Mar. 15, 1949.	
24	T <sup>a</sup>	† Missouri Valley Electric Association, Sales and Rural Committee, begins meeting, Kansas City, Mo., 1949.	
25	F	† Pennsylvania Electric Association, Transmission and Distribution Committee, ends meeting, Philadelphia, Pa., 1949.	
26	S <sup>a</sup>	† Oklahoma Utilities Association will hold annual meeting, Tulsa, Okla., Mar. 17, 18, 1949.	
27	S	† Associated General Contractors of America begins annual national convention, New York, N. Y., 1949.	☉
28	M	† American Society for Testing Materials begins spring meeting and committee week, Chicago, Ill., 1949.	



## MARCH



1	T <sup>a</sup>	† Association of Highway Officials of the North Atlantic States begins annual convention, Boston, Mass., 1949.	
2	W	† Texas Telephone Association will hold annual convention, Dallas, Tex., Mar. 21, 22, 1949.	

## Coal for the Lamps of Winter



*Courtesy, Detroit Edison Company*

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# Public Utilities

FORTNIGHTLY

VOL. XLIII; No. 4



FEBRUARY 17, 1949

*Probably more fundamental  
changes necessary?—  
Commission  
G. H. H.*

## Public Utility Investors Deserve Square Deal

*This, in the opinion of the author, they have not had under various forms of regulation thus far tried, which have functioned primarily in favor of utility company customers—a special public utility court needed to hear representatives of the regulatory commissions together with those of the company, and rule on the issues involved.*

By WILLFORD I. KING\*

ECONOMICS PROFESSOR EMERITUS, NEW YORK UNIVERSITY

THE very fact that concerns furnishing gas, water, electricity, communications, and transportation are commonly referred to as public *utilities* indicates that their services are generally regarded as necessary and useful. Nowadays, however, these services have become so commonplace that we are prone to overlook the revolution which they have wrought in our way of life.

\*For additional personal note, see "Pages with the Editors."

In the typical American home of half a century ago, the family began a winter day by climbing out of bed in frigid rooms and shivering into their clothes. Then, someone put kindling and fuel into the stove and finally succeeded in getting sufficient fire to thaw things out. Some other member of the family tramped through the snow to the well and pulled up a bucket of icy water and brought it into the house. If it happened to be wash day, many such trips to the well were necessary.

## PUBLIC UTILITIES FORTNIGHTLY

Then the housewife either rubbed the clothes in a tub, or, if she was fortunate enough to have a washing machine, someone pushed the lever back and forth and turned the wringer until the wash was ready to hang out on the line. When the hard work of the day was finished, the duty of the mother of the family was to see that the smoky lamp chimneys were polished and that the lamp bowls were filled with malodorous kerosene. On baking day, it was always a problem to keep the oven at the proper temperature, someone having to dash out to bring in more cobs or wood whenever the fire died down. When spring came, all the carpets had to be taken up, put on the line, and beaten thoroughly, and then painfully stretched back into place, and tacked. Those were the days in which there were practically no public utilities to prey upon the American people.

How times have changed. Now, in winter time, when the members of the family step out of bed, they find the room comfortably warm because the heating apparatus has been regulated by a thermostat governed by electricity furnished by a public utility. Hot water is available, thanks to the gas furnished by a public utility. No one brings in fuel for the cookstove, for it is heated by more of this same gas. People are so accustomed to getting light from an electric current furnished by a public utility that they have almost forgotten the existence of kerosene lamps.

This same electric current does the hardest part of the washing. The vacuum cleaner, powered by electricity, has eliminated all the exhausting work

of taking up, beating, and putting down carpets. When the housewife wishes supplies from the store, or desires to visit with one of her friends, she does not have to travel miles, but turns to the telephone supplied by a public utility. The head of the house does not walk to his place of business, but rides in a bus or car operated by a public utility. If he is employed in a factory, or at a dock or freight house, machines powered by electricity, furnished by a public utility, do most of the heavy work which formerly depended upon muscle. What it all adds up to is that the services furnished by the public utilities have taken a large part of the drudgery out of life, and have substituted therefor leisure and comfort.

### *Concerns "Affected with a Public Interest"*

THE facts just stated explain why concerns operating in the fields above listed are commonly referred to as "utilities." But just why should *private* enterprise engaged in these lines of production be given the appellation "*public*" utilities? Apparently, they have been so dubbed because the courts have held that the types of service rendered by these industries are all "affected with a public interest." And why have the courts so held? From the standpoint of the public, is gas or electricity more essential than bread or meat? If not, why are not bakeries or packing houses as truly "public" utilities as are gas and electric companies?

The answer to this last query seems to be that the judicial concept—"affected with a public interest"—a concept which has developed slowly

## PUBLIC UTILITY INVESTORS DESERVE SQUARE DEAL

through the centuries in both England and the United States—in reality is a judicial way of referring to the presence of *monopoly*.

In the typical municipality in the United States, one corporation is given an exclusive franchise to render a specific service, such as, for example, furnishing gas to the inhabitants. The courts say that, since it is thus given a monopoly, it is "affected with a public interest," and hence is subject to regulation by government.

### *Why Permit Monopolizations?*

QUESTIONS which naturally arise at this point are: Why give a gas or telephone company an exclusive franchise to operate in a municipality? Why not apply the Sherman antitrust law, break up all public utility monopolies, and assure free competition? Surely, in a nation in which capital is as abundant as it is in the United States, many competitors will stand ready to enter the field.

The difficulty with this solution of the problem is that, in practice, the remedy has proved to be worse than the disease. Thus, if two or more streetcar lines are allowed to operate in a city, the traveler frequently finds himself inconvenienced because he cannot travel to where he wishes to go

without using two lines and paying a double fare. Where cities have experimented with two telephone lines, residents who do not go to the expense of renting two telephones are constantly annoyed by discovering that the persons to whom they wish to talk have the other company's telephone.

Under such arrangements, most business concerns must have two telephones. If a city permits more than one gas company to operate within its limits, the result is to have the streets torn up for repairs twice as frequently as is necessary. The reasons just cited have produced a practically unanimous opinion that not more than one company in each field should operate in a given territory. Hence, one corporation is given an exclusive franchise to render a particular service.

### *Are Public Utilities Really — <sup>substituted</sup> Monopolies?*

BUT is it true that, in the United States, today, the public utilities are, in general, really monopolies? Consider, for example, the case of a company that sells electricity. Are manufacturers compelled to buy current from the local electric company? They can use steam power directly, or they can install their own electric generators. Both factories and homes can



"... both logic and experience seem to justify the generally accepted view that government must step in to protect the customers of public utilities against possible abuses of the monopolistic powers possessed by corporations holding exclusive franchises. The question now to be considered is, therefore, whether there is any possibility of developing a workable system of regulation which will protect the customers and, at the same time, assure fair play for the investors."

## PUBLIC UTILITIES FORTNIGHTLY

be brilliantly illuminated by gas or modernized kerosene lamps. Likewise, the housewife is not absolutely dependent upon the services of the local gas company. She can cook on a coal range or use an electric stove, or, if she prefers, she can utilize "bottled gas" in her present range.

As public utility executives frequently contend, the examples just cited prove conclusively that gas and electric companies do not have *absolute* monopolies. One must, however, recognize the fact that *absolute* monopoly is a rare phenomenon. Most monopolies are distinctly *partial* in nature, and most public utilities are monopolistic to a marked degree. The alternatives to buying gas or electricity from the concerns possessing exclusive franchises to use the public streets for their transmission lines are all definitely troublesome and expensive. The same is true in the case of other public utilities. Walking, driving, or sending letters are frequently very poor substitutes for telephoning or telegraphing. It follows that the contention that public utilities are, as a rule, as competitive as bakeries or packing plants is ill supported by evidence.

### *Is Regulation of Public Utilities Justifiable?*

**N**ow, it is a matter of common observation that men possessing monopolistic power have always been tempted to use it to curtail production and quality of service, and to raise the prices charged to their customers, thus increasing their own profits. Executives of public utility companies, being no less selfish than other human beings, are prone to yield to temptation.

They have it in their power to take advantage of thousands of people. Most careful students of the subject therefore agree that it is against the public interest to allow them to exercise power without restraint.

### *Weaknesses of the Present System of Regulation*

**B**UT restraint means that government must step in; and governments are usually run by politicians—a class commonly anxious to curry popular favor in order to gain votes. They know that, to the average citizen, the word monopoly has a sinister connotation. They also know that, as a rule, the investors in a given public utility company are likely to be scattered throughout the United States, while the customers of the same public utility are usually concentrated within a comparatively small area. Therefore, the politician, when seeking votes, finds it advantageous to cater to this relatively concentrated mass of voters, and feels that he can safely ignore the scattered stockholders and bondholders.

He, therefore, is commonly found demanding lower rates for all public utility services, and picturing the investors as leeches greedily sucking out the lifeblood of hapless customers. He leads his hearers to infer that public utilities belong, primarily, to heartless "economic royalists," and never hints that the stocks and bonds of the public utilities are largely held by men and women of very moderate means.

**N**EITHER does he mention the fact that the berated public utilities are, in no small part, responsible for transforming the homes of Americans



### The Yardstick Method

**"T**HE yardstick method consists in the setting up of governmentally owned plants which demonstrate by experiment what reasonable unit expenses of production are. Private concerns are then expected to sell their respective outputs at rates which will yield no more than a fair rate of profit over and above the service cost which the government plant shows to be actually attainable."

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from rather bleak places of abode into domiciles abounding in comfort, and often in luxury, and that this transformation would have been entirely impossible had not thrifty men and women utilized their hard-earned savings to buy the stocks and bonds of public utility corporations. Here we find the basic explanation of why public utility investors have so rarely enjoyed a "square deal."

Yet, as stated above, both logic and experience seem to justify the generally accepted view that government must step in to protect the customers of public utilities against possible abuses of the monopolistic powers possessed by corporations holding exclusive franchises.

The question now to be considered is, therefore, whether there is any possibility of developing a workable system of regulation which will protect the customers and, at the same time, assure fair play for the investors.

### Three Systems of Regulation

**T**HREE methods of public utility regulation have been tried. They are:

1. The yardstick method.
2. Rate fixing by legislative enactment.
3. Commission control.

What are the merits and demerits of each?

### The Yardstick Method

**T**HE yardstick method consists in the setting up of governmentally owned plants which demonstrate by experiment what reasonable unit expenses of production are. Private concerns are then expected to sell their respective outputs at rates which will yield no more than a fair rate of profit over and above the service cost which the government plant shows to be actually attainable.

On its face, this procedure appears

## PUBLIC UTILITIES FORTNIGHTLY

to be eminently fair, and, since government is usually an inefficient producer, it would seem that no well-managed private concern could seriously object to this type of demonstration. In practice, however, the "yardstick" is but rarely an honest one. Ordinarily, the interest on the investment in the government plant is figured at rates below those at which money is obtainable in the open market by private concerns. Some of the administrative salaries may be paid out of the public treasury. Usually, no allowance is made for the taxes paid by private companies.

In some instances, as, for example, in the case of the Tennessee Valley Authority, part of the expenses of the government plant are charged to improvement of navigation or to flood control. As a rule, therefore, the yardstick method furnishes no sound criterion by which to determine what rates charged by private concerns ought to be.

### *Rate Fixing by Statute*

**R**ATE fixing by statute has three fundamental weaknesses. They are as follows:

1. Legislative committees are not equipped to regulate rates scientifically.
2. Changes in the value of the dollar soon make the statutory rates obsolete.
3. Legislative bodies are likely to be guided more by political pressure than by scientific standards.

Because of the just-mentioned weaknesses in "yardstick" or statutory control, regulation of public utilities has gradually been delegated to commissions set up either by Congress or by state legislatures.

FEB. 17, 1949

### *Commission Control*

**T**HE men originally sponsoring this type of control pictured it as protecting the rights of both public utility investors and customers. The former were to be given, in accordance with Supreme Court decisions, a "fair" return on their investments—"fair" being defined as the rate obtainable on investments of like safety in competitive business. Rates charged to customers were to be set no higher than necessary to yield such "fair" returns to investors. That was the theory. How does it work in practice?

As might be expected, the commissioners are subject to political pressure—sometimes, perhaps, at the expense of more scientific rate fixing. Locally, public utility customers are more numerous and hence have more votes than have public utility security holders. In practice, therefore, there is some tendency to give only nominal consideration to the interests of the stock and bond owners.

### *The Rôle of the Labor Union*

**I**N recent years, a third group has entered the picture in a large way. This group consists of employees strongly organized into a militant union. The tactics of the union leaders usually produce something approximating the following sequence of events:

1. A sharp increase in wage rates (say 30 per cent) is demanded.
2. The company demonstrates that, with existing rates for its services, such a wage increase would wipe out all profits.
3. The union leaders threaten to call a strike.
4. The mayor demands that grievances be arbitrated.

## PUBLIC UTILITY INVESTORS DESERVE SQUARE DEAL

5. Both sides yield, and the mayor appoints an arbitrator — ordinarily a professional who hopes for future appointments, since the pay is usually very high.

6. The arbitrator "splits the difference"—granting half the increase demanded by the union.

7. The company applies for an increase in rates sufficient to give it a reasonable return on its investment.

8. The public utility commission decrees a waiting period—during which the company may run into the red.

9. The case for the customers of the utility is often prepared by staff employees of the commission.

10. The decision of the commission may even be actually written by one of those staff employees who has prepared the case for the customers.

11. The commission now delivers in solemn judicial form an opinion to the effect that the rates are about as high as the public can legitimately be asked to pay. It cites court decisions supporting the view that workers are entitled to "fair" wages regardless of whether or not anything is left for the investors. It finally grants a rate increase too small to give to the stockholders a fair return on their invested capital.

12. After a few months respite, the union leaders again demand another 30 per cent wage increase, and the whole sequence of events is repeated.

13. If, eventually, the wage rates are forced up by the unions to such a level that it is impossible for the enterprise to pay operating expenses, the unions may even insist—sometimes success-

fully—that the city take over the utility, operate it at a loss, and let the taxpayers make up the deficit.

FROM the investor's standpoint, this sequence of events is fully as unlucky as their number — thirteen — might indicate. The net result of this system of regulation by commissions is that a large proportion of stockholders, and, in some cases, bondholders as well, are deprived of the opportunity to secure "fair" returns on the capital which they have invested in well-planned, well-managed enterprises, the products of which are in strong demand. Thus the very people who have made possible such wonderful advances in comfortable living for the public in general are deprived of their just returns.

From the facts set forth, it is obvious that the existing system of regulation of public utilities is unsatisfactory. The crucial question is how to get rid of existing evils while still retaining adequate safeguards for the buyers of public utility services. The indicated program of reform seems to run along the following lines:

### *Logical System of Regulation*

1. SINCE public utility rates are not readily adjustable, and since public utility employment is relatively stable, unions of public utility employees should be prohibited by law from



**Q** "SINCE public utility rates are not readily adjustable, and since public utility employment is relatively stable, unions of public utility employees should be prohibited by law from dealing directly or indirectly with questions either of wage rates or hours of work. The companies should be allowed to hire labor in the open market at the best prices obtainable."

## PUBLIC UTILITIES FORTNIGHTLY

dealing directly or indirectly with questions either of wage rates or hours of work. The companies should be allowed to hire labor in the open market at the best prices obtainable. All disputes concerning the treatment of employees should be referred to the public utility commission for settlement. Employees should be warned that any employees striking would be replaced at the earliest possible date with other permanent employees.

### 2. PUBLIC utility statutes should be amended to provide:

a. That the minimum permissible rates of return on wisely invested capital should be equivalent to the *long-time average* rates actually earned on investments subject to comparable degrees of risk in competitive fields of industry.

b. Concerns operating so efficiently as to sell services to customers at rates materially lower than those charged by other public utilities operating under similar conditions should be allowed higher rates of return on their invested capital.

c. Every concern should be required to express the amount of capital invested in each year in terms of the purchasing power of dollars of the specific date set by the statute as a base. The investments in the different years, after having all been converted to dollars of uniform purchasing power, should be added. The total would represent the aggregate invested capital measured in standard base-date dollars. Before computing rates of return, all current-dollar net earnings should be converted into terms of base-date dollars.

### 3. THE work of the public utility commissions in connection with rate making should be limited solely to fact finding, and to presenting the case for the customers.

4. IN each state, a special public utility court should be set up. All possible precautions should be taken to divorce this court from politics. This court should hear the representatives of the commission and those of the company concerned and then rule on the issues involved.

### *Logic Supporting the above System*

NOW let us consider briefly the reasons which make essential such changes in methods of regulating public utilities. We shall take up the points in the order in which they have just been listed.

Only the briefest consideration is necessary to make obvious the absurdity of establishing elaborate machinery to prevent *capitalistic* monopolies from taking advantage of public utility customers while simultaneously giving *labor* monopolies complete freedom to squeeze these same customers to any extent deemed profitable. The frequently advanced proposal that the wage rates of public utility employees be fixed by the commissions does not offer a solution which will protect investors, for labor leaders are adept at stirring up sympathy for "the underdog" and can thus put political pressure on the commission in charge. Competition is the only force yet discovered which tends to give a "fair" wage to every worker.

Let us next consider the question of a "fair" rate of return. What this is should be so clearly defined in the statutes as to minimize litigation in this connection. The reason for using *long-time averages* of competitive rates as criteria is to avoid the necessity of readjusting public utility rates every time that the business cycle

## PUBLIC UTILITY INVESTORS DESERVE SQUARE DEAL

causes competitive interest rates to vary.

**T**HE reason for permitting efficiently managed public utilities to enjoy higher rates of net earnings than are allowed to the more poorly managed concerns is to promote efficiency, and thus benefit both customers and investors. When no reward for efficiency exists, the natural tendency is for management to become lackadaisical.

One reason why, in rate computations, all figures should be reduced to dollars having uniform purchasing power is to stop the endless wrangling over rates brought about by every change in the price level. Even more important is the desirability of protecting investors in their right to secure continuously reasonable returns on the money which they have put into the enterprise. Since the earnings of public utilities are regulated, the person who buys the stocks or bonds of a utility corporation sacrifices the possibility of making large gains if the operations of the company prove to be unusually successful. In return for this sacrifice, it is only just that he be protected against loss caused by conditions over which the company has no control—for example, currency inflation by government. Similarly, in times of deflation, public utility customers

are entitled to be guarded against overcharging. The reduction of all values to dollars having uniform purchasing power is by far the simplest device for attaining these goals.

**T**HE last proposal—to take away from the commissions (which, in practice, represent mainly the customers) the power to fix rates—is merely to recognize realities. To expect that the same group of men can prepare a case for one party to a controversy and then decide it fairly is to assume that the members of the commission are superhuman! The customers are entitled to have their case set forth by competent representatives, but they are not entitled to have their attorneys also act as judges in the cases which they argue. The public utility court offers a reasonable device for improving the prospects of obtaining equitable decisions.

All governmental mechanisms thus far devised by man have been very imperfect, and doubtless the one here suggested would prove to be no exception to the rule. However, it is offered as a logical setup which, in structure, is far superior to the one with which the public utility industry is now afflicted. It would offer to public utility investors at least a chance of obtaining a square deal—a chance which has long been the exception rather than the rule.

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**"I**f business wishes to preserve the system in which it has flowered, its leaders should think seriously about its responsibility to protect and defend freedom in education on higher levels.

*"When Federal support remains as the bulwark of higher education, American business inevitably will suffer. It will have none but its collective self to blame if the country's system of higher education is permitted to flounder and collapse in the mire of politically dominated state control."*

—HENRY T. HEALD,  
President, Illinois Institute of Technology.



## An Editor Looks at The "Employees' Magazine"

After four decades of service with the same telephone company organization, this author, one of the best known and successful of all Bell system employee magazine editors, looks back on his editorial career honestly and even critically. Has it all been worth while? Is a utility employee's magazine worth its keep? What makes a good editor and how can he and his employers gauge the effectiveness of his work? These are the questions that J. Oliver Martin, for many years editor of *The Transmitter*, endeavors to answer with simple candor.

By J. OLIVER MARTIN\*

**F**ORTY years ago a hopeful, believing, trusting young man fresh from a little village in New Jersey became attached to the payroll of the New York & New Jersey Telephone Company, in its Jersey City office. While working at a job in what is now the commercial department he saw No. 1 of Volume 1 of what was probably the first employees' magazine which had ever come to his attention.

About that time a vocation counselor at the YMCA told him that he probably would be successful as an advertising writer. His mother, however, said that, in her estimation, that way of making a living was in the same class with telling fortunes. The advertising manager of the company was helpful and, in January, 1913, the young man found himself in the adver-

tising department of the Chesapeake & Potomac Telephone Company at Baltimore.

Part of the job consisted of writing items and articles for *The Transmitter*, which had just been established. The magazine and the young man started out together in the field of employee relations. He liked the job. It pleased him to see in print words that he had written, accompanied in some cases by his name.

Present-day readers and editors would hardly call the young *Transmitter* a magazine. The early issues (for the first year) had only 12 pages each and no cover. But each issue presented a careful job of editing and a good job of printing and there was no foolishness about it. Also, the magazine was generously illustrated with good photographs. No apology need be made for any of those early issues, even though

\*For personal note, see "Pages with the Editors."

## AN EDITOR LOOKS AT THE "EMPLOYEES' MAGAZINE"

they were small in size. The publication was issued twice a month and each issue was filled with news of the business and the people engaged in the business.

Right here, perhaps I may be allowed to say that some of the employees' magazines of today seem to be drifting away from this idea; their pages seem to contain much that has nothing to do with business. I know, of course, that the editor of such a magazine will immediately defend it on the ground that the reader must be kept interested. Which is true. But interested in what? The magazine or the business? After all, the magazine is not an end in itself; it is merely a medium for creating interest in the business.

*The Transmitter* was definitely a magazine with a mission; that mission was set forth in no uncertain terms on the editorial page of the first issue:

1. To promote a close understanding between all workers in the company's service, irrespective of grade or nature of work.
2. To make clear the company's policies, ideas, and aims.
3. To inform the force in matters tending to secure greater efficiency.

It is quite clear from the above that the editor and his superiors did not look upon the job of the magazine as a job of entertainment, and they did not hesitate to express the hope that, as a result of the information and understanding provided by the magazine, the employees would be able—and willing—to do a better job. The magazine, therefore, was to be in the nature of an additional tool or piece of equipment. The editor referred to it as a "magazine of helpfulness."

Management assumed that the em-

ployees were interested in the success of the business and wanted to do a good job.

The editor, T. T. Cook, who is now assistant vice president of the American Telephone and Telegraph Company, made it clear to everybody that contributions and comments would be welcomed.

What was discussed in the first issue? The feature article was about telegrams by telephone. On the editorial page was a message from the vice president and general manager to the 4,300 men and women of the organization, as it then existed, concerning their new magazine. There was a message from the general commercial superintendent about the outlook for the new year and there was a word of greeting from the president. There were pictures of and greetings from the department heads.

THE news items were about such things as the pension fund, the telephone society, organization changes, savings effected by the use of automobiles, sales of the service, the luncheon and dining rooms, personal news of the operating force, a conference of commercial officials. And there were news notes from the smaller towns in the area—Havre de Grace, for instance, and Hagerstown, and Lynchburg.

It was "family stuff" but not gossip, and most of it tied into the business. We didn't use filler. We didn't need to, because we scouted around and found enough material of the right kind. We didn't do anything to "jazz it up" but we surely did try to make it interesting.

We felt that what went into the

## PUBLIC UTILITIES FORTNIGHTLY

magazine could be made interesting for those for whom it was intended without putting on any Hollywood touches. We were not writing for people outside of the organization and we wanted to appeal to the mind as well as to the eye. I think our early efforts in furnishing food for the minds of C&P people might be compared to the efforts of a mother who is raising a bunch of children on a limited budget. She wants to make her table attractive but she knows that her kids cannot get much nourishment out of fine china and sterling silver. She knows, too, that the food provided should not contain a large amount of sweets.

I sometimes think that present-day editors spend so much time and thought in ornamenting the table and striving to make it clever and unusual that they overlook the necessity of providing nourishing food for a growing family.

I ALSO have a feeling that an employees' magazine should have something resembling a soul as well as what we might refer to as a body. The body of a magazine is born of the knowledge and skill of the editor, with the help of various photographers, artists, engravers, and printers, the number and activities of whom are limited only by the size of the annual

budget. The soul of the magazine is the product of those attributes of the editor—and the organization—which artists and architects, in discussing pictures and old houses, sometimes refer to as "spiritual values"—and which have nothing at all to do with the size of the annual budget.

After a few minutes of study an experienced person can appraise the body of a magazine. But you cannot in a few minutes tell whether or not a particular magazine is doing a good job among the people to whom it is distributed, and whether or not it is worth what it costs. We all like a snappy printing job, with plenty of high-class art work, but we often fail to realize that a magazine may be beautifully printed in several colors on excellent paper and still be a poor investment, just as a young man may be as handsome as a movie hero and as clever as a radio master of ceremonies and still be a spendthrift and a loafer.

YOU cannot find out how good a magazine is by listening to the artists, engravers, and the printers who do the production job. They are prejudiced. And you can't tell by listening to the editor if the magazine is doing a good job among the people it is supposed to serve. The way to find out if it is any good or not is to find



**Q** "You cannot find out how good a magazine is by listening to the artists, engravers, and the printers who do the production job. They are prejudiced. And you can't tell by listening to the editor if the magazine is doing a good job among the people it is supposed to serve. The way to find out if it is any good or not is to find out what the readers think of it and what they think of the business and the company."

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out what the readers think of it and what they think of the business and the company. If they feel that the editor doesn't believe what he writes, and that the officials say one thing in the magazine and practice another in the conduct of the business, you may be sure that the magazine, whether it costs much or little, will not have much value. And, if this is the case, it certainly isn't fair to blame the editor or the magazine for the weak spots in the company policy or the poor quality of some of the officials. The president of a large telephone company once publicly stated that you can fool the people who work with you and you can fool the people you work for, but you can't fool the people who work for you.

That's why I don't like a magazine with a lot of propaganda, balanced by a lot of miscellaneous reading having nothing to do with the business. The theory is that the employee will take home the magazine to read the entertainment features and will then proceed to read the propaganda. I doubt it. It is my guess that such a magazine is pretty nearly a total loss. The entertainment doesn't do him any particular good—at least, as far as benefits to the company are concerned—and he doesn't bother to read the other.

**W**HAT I am trying to say is that the magazine does not create character for the company. It merely advertises existing character and seeks to find ways in which the employees may have a share in building up that character.

It follows that the editor of an employees' magazine should be not merely a person who can make phrases, or

who knows type and illustrations and has clever ideas. He should, in addition, have a good understanding of management, of policies, and of business in general, and he ought to have a large knowledge of and interest in human beings.

The job of an employees' magazine is essentially a personnel job and the reason for the existence of the magazine is the reason for the existence of an intelligent personnel program generally.

E. K. Hall, one of the all-time high-grade personnel men of the country, used to say that the purpose of a personnel program is to bring out of each man and woman in the organization the best that is in him or her, for the good of the individual and the organization, and, I suppose we can add, for the good of those served by the organization.

And by personnel program I don't mean that which was once known as welfare work. The editor of an employees' magazine should never get the idea that in performing his duties he is on a slumming tour, and that any sort of junk he uses to fill up the magazine is good enough for those who read it. There are, of course, a few near-illiterates in every organization, but there are also in every organization people who are capable of appreciating the best the editor has in him in thought and literary style and who may be his superior in education and culture.

**A**FTER more than a third of a century of writing for and editing an employees' magazine, I hope I have no illusions or delusions and that I have learned to see things as they are.



### The Employees' Magazine Editor

*"... the editor of an employees' magazine should be not merely a person who can make phrases, or who knows type and illustrations and has clever ideas. He should, in addition, have a good understanding of management, of policies, and of business in general, and he ought to have a large knowledge of and interest in human beings."*

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I have come to the conclusion that intelligent humility is one of the greatest virtues of a writer or an editor. Abraham Lincoln was an humble man and he wrote deep and stirring thoughts in short words and simple phrases. It is generally agreed that his Gettysburg Address is a masterpiece. I wonder how many people know that 76 per cent of the words in it are words of one syllable. One sentence in that speech has been proclaimed by a committee of literary judges as the most beautiful sentence in English. There are 21 words in that sentence; 17 of them are words of one syllable.

The editor's job is not a job of entertainment. Therefore, the editor need not feel called upon to be a perpetual wisecracker, buck-and-wing dancer, or sleight-of-hand performer. He should be a teacher rather than a stunt artist, and he should never lose sight of the fact that for hundreds, perhaps thousands, of people in the organization, the magazine is their prin-

cipal contact with the business in general and with the higher supervisory people.

A teacher's job is to inform, to instruct, and to inspire. If I tell you that a convention is being held in Washington this week I am informing you. If I tell you how to edit a piece of copy I am instructing you. If I put into your heart and mind the desire and the intention to do a better job I am inspiring you.

IT is part of the editor's job to see that the information and the instruction are interesting. If the magazine isn't interesting you can be sure that it isn't inspiring.

Making things interesting means work. But why shouldn't an editor work? I have no sympathy at all with the fellow who feels that because he is an editor he should be exempt from the mental and physical effort which is required from the other laborers in the vineyard.

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Of course, many editors and advertising men (just like human beings in general) hate to think. I once asked an assistant to prepare a piece of copy for an advertisement. About an hour later I found him drawing a border. He had not yet written the copy. To his mind an advertisement was evidently not a message, but simply some type with a border around it.

Please don't think I am ultraconservative. Proper illustration is desirable and so is good layout. Every intelligent editor knows this. But every intelligent editor also knows, or ought to know, that these things are not the message but simply the trimmings. He ought to know that art for art's sake or type for type's sake has no place in an employees' magazine.

The real test of such a magazine is and must always be: Does it sell the organization to its people? If it doesn't do this, it isn't worth boasting about, no matter how beautiful it may be as a work of art or how clever as a mess of words.

THE president of a large company which spends a lot of money in advertising, once expressed the thought in *Printer's Ink* in this way:

"Every now and then," said he, "I hear about advertising awards. Somebody gets a prize for a good-looking advertisement. Almost every time I hear about these awards I wonder if any one connected with them ever thought of giving a prize for the advertisement that brought in the most results to the man who paid for it."

Which brings to mind an incident which occurred in my office several years ago. An advertising man came in and laid on my desk two pieces of

copy. "Read these," he said, "and tell me which will make 'em march against the Macedonians."

The phrasing of his request was based on an incident in ancient history. Demosthenes and Aeschines were rival orators of ancient Greece. Somebody twitted Demosthenes with the statement that Aeschines was the better speaker. "Oh, yeah?" said Demosthenes, or whatever it was the ancient Greeks used instead of that phrase. "Well, when Aeschines speaks people say: 'What a great orator is Aeschines!' But when Demosthenes speaks they say: 'Let us march against Philip!'"

My friend was seeking a message which would sell his goods rather than bring him personal compliments.

It always amuses me to see two editors figuratively slapping each other on the back regarding the merits of their respective magazines. They talk about space, type, and a lot of things. But hardly ever do they say anything about people and what people think. They fail to realize that their readers are not worrying about type faces but about themselves and their jobs.

Herbert Casson, well-known advertising man, in speaking about a group of allied craftsmen, summed up this weakness when he said:

"Artists paint wonderful pictures for other artists to admire, but which have no more effect on the public than the sighing of the summer wind among the trees."

BEFORE an editor worries his head about such things as modern type faces and trick photography he ought to ask himself these questions: What kind of people am I trying to reach?

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Where do they live? What is their social and educational background? What do they think about and talk about? What are their misunderstandings, their doubts, their fears, their hopes, their ideals? What message do I want to get across to them?

And the only way in which he will ever get the answers to these questions is to mingle constantly with people in all walks of life. You can be a good technical man without knowing people, but I doubt if you can be an efficient editor of an employees' magazine without knowing people.

How are you going to sell ideas to streetcar conductors if you never ride on a streetcar? How are you going to understand people who live in rural areas if you have never been nearer to a farm than the front seat of a high-powered car on the main highway?

You can't put across the fundamental facts and principles of your business unless you know the business and unless you make some effort to understand the viewpoint of the employees. And you can't get their views by sitting in the editorial chair with your feet on the desk. You've got to get out in the offices, shops, yards, and all the other places where the men and women of your organization may be.

**A**N editor ought to know, right down to the office boys, the organization of which he is a part. He shouldn't

regard himself as an editor, but as a telephone man, a railroad man, a gas company man, an insurance man, as the case may be. If he doesn't know the business and the organization he is not a good editor, no matter how much he knows about editing. And if this be treason I am perfectly willing to let it ride.

The editor should be happy to be accepted by his readers as just another telephone man—or railroad man, or electric light man, or whatever kind of man his magazine indicates he should be—who is engaged in furnishing what should be accurate, timely, useful, and interesting information on affairs interesting to the men and women in the organization, who in their respective jobs are just as clever as he is in his.

The job of the editor of an employees' magazine for a public utility is not an easy one if it is done right. A large industrial organization is made up of many kinds of people, varying in education all the way down from the highly trained technical man to those with limited education, and in viewpoint all the way down from the mature department head to the immature and recently engaged file clerk, and in dignity all the way down from one of the vice presidents to one of the messengers, and that the message you write for one of them may be read by all of them, and that if it is read by



**Q** "It is a mistake to start a magazine in grand style and then cut it out entirely when the going gets difficult; such a policy is likely to make people think it should not have been started at all. Better to start humbly and grow slowly and to continue without interruption."

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any or all of them it ought to be easily understood and worded in such a way that it will not arouse resentment. The thought that I am trying to put across is that an editor's problem is not confined to such simple matters as paper, print, and pictures, but extends to such important and complicated matters as human reactions. Always must an editor be thinking about people—flesh and blood human beings.

**J**UST as there are several kinds of editors there are several kinds of employee magazines. One is the kind which management is likely to insist on if the editor does not assert himself—a magazine which is written and edited almost entirely from the management point of view. Another is the kind of magazine which the editor is likely to get out if the management does not assert itself—a magazine which follows the line of least resistance and which appeals to the editor's vanity or artistic temperament. The third is the kind which many of the employees want—a magazine filled with pictures, personal references, jokes, poetry, fiction, puzzles, and light reading generally. The fourth and probably the most effective is a compromise.

The trend in recent years seems to be away from writing and towards pictures. In spite of that old Chinese proverb, pictures do not always tell the story. If one picture is worth ten thousand words, what picture would you substitute for Lincoln's Gettysburg Address or the Sermon on the Mount or Mark Antony's oration at Caesar's funeral?

It is the editor's job to give management enough of the educational and in-

spirational material to justify management in paying his salary and the other expenses of the magazine, and it is also his job to give the employees enough pictures and interesting reading matter about the business to justify them in taking the magazine home and perhaps reading the articles in which management is especially interested.

**A**ND always there is the element of the editor's self-respect. In trying to please both management and employees he cannot afford to be vulgar or dishonest or unfair or unduly flattering. Always he should keep in mind what Polonius said to Laertes: "This above all; to thine own self be true and it must follow, as the night the day, thou canst not then be false to any man."

There is one thing which he can do to make even management articles interesting. He can put into his writings a little more thinking, a little more spirit, a little more romance, a little more adventure, a little more imagination.

Everybody wants to be happy in his work. Philosophers know that the surest way to accomplish this is to adopt a wholesome attitude toward it. It is part of the editor's job, through his understanding and his imagination, to help the employees to see their work as something more than just a job, something more than merely a means of obtaining bread and meat.

While the editors of all the employees' magazines think they are aiming at the perfect publication, some of them may find themselves in the position of the manager of a clothing store about which somebody told me a little story. The story goes that a man from



### Magazine's Appeal to All Employees

**“ONE** of the difficulties of the employee magazine today is that companies have grown very large. There are many groups, and they are not all interested in the same things. One magazine may have to appeal to ten thousand people in several states, of both sexes, and of all degrees of education and social background. The trained engineer gets the same magazine as the file clerk and, because it is designed to appeal to both, it may be that it appeals to neither.”

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the Blue Ridge mountains went in the store to make a purchase, but couldn't get what he wanted in either goods or service. On his way out he saw a big sign on the wall and asked the manager to read it for him. The manager read: "We aim to please." Then he asked the stranger if there was anything the matter with the sign. The mountaineer said: "Oh, the sign is all right. It is very pretty. But I think you city fellers need a lot of target practice."

**W**HAT has gone before in this article is pretty general in nature. Perhaps some of the readers would like to have some specific suggestions. It may be that a utility executive is thinking about starting an employees' magazine and is wondering if it is worth while.

The answer to that depends largely on what the man has in mind. If he wants a magazine in order that he and his associate executives may bask in

favorable publicity he would be wise to forget the whole idea. Employees are not interested in seeing the "big bosses" glowingly portrayed, unless they are presented in connection with something that is news. And even then the editor should be sparing in his use of complimentary adjectives.

I would likewise suggest that the executive forget the whole idea if he has in mind using the magazine to cover up weakness in the management or in the business. Unless the business is conducted on a fairly high plane, the less boasting about it the better. Indeed, unless you have a good reason for starting a magazine and know exactly what that reason is, and are willing to do something definite about it, it would be wise to wait.

Don't start a magazine in order that you may preach "the American way of life." It's my guess that employees are a little tired of the subject. A little practice in this respect is better than a

## AN EDITOR LOOKS AT THE "EMPLOYEES' MAGAZINE"

lot of preaching. I once heard two utility executives discussing employee relations. "How can we be sure," asked one, "that our employees are loyal to the company?" The other—and it seems to me the wiser—said something like this: "What we want to be sure of is that the company is loyal to the employees."

**A**NOTHER question which is likely to be asked is what does a magazine cost. The answer is that it costs enough to justify careful watching. The tendency of magazine costs is to climb. Aside from rising prices in general, there is always the editor's pride and the company's pride and the boss' pride. Everybody wants a good-looking magazine. And there's always the element of keeping up with the Jones crowd. The boss receives a copy of a magazine published by a company in another city. He sends it to the editor with a note: "Why can't we have something like this?" The editor is willing to oblige. He is sure that a better magazine is always in order. The magazine gets bigger and better. Then a depression strikes. The poor magazine is treated like a beggar. Maybe the editor loses his job.

It is a considerable source of pride to me personally that we have always tried to do a good job on a limited budget and that when the last depression came along we managed to get out some sort of magazine each month while some of the more expensive type of employees' magazines folded up altogether. It is a mistake to start a magazine in grand style and then cut it out entirely when the going gets difficult; such a policy is likely to make people think it should not have been

started at all. Better to start humbly and grow slowly and to continue without interruption.

**I**F I were a utility executive today I think I would hesitate about starting a magazine of the eye-appeal kind. There's too much competition, what with motion pictures and television and magazines of the *Look* and *Life* type. I probably would be content to get out a series of bulletins for the employees—giving them plenty of reliable, helpful, up-to-date, interesting information about the business and the people in it. I would make those bulletins of sufficient frequency as to insure freshness of material and of sufficient brevity to insure the bulletins being read. And perhaps I would have different bulletins for different groups, to get a little closer to each group. Employees want to be a part of the team; they want to work for a successful company and one which enjoys the respect of the public. But they don't want the coach to be lecturing them all the time, and they want an occasional turn at the bat.

One of the difficulties of the employee magazine today is that companies have grown very large. There are many groups, and they are not all interested in the same things. One magazine may have to appeal to ten thousand people in several states, of both sexes, and of all degrees of education and social background. The trained engineer gets the same magazine as the file clerk and, because it is designed to appeal to both, it may be that it appeals to neither.

**O**THER magazines do not have this problem—at least, they do not

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have it to the same degree. A magazine for stamp collectors is usually read by stamp collectors only. A magazine for executives is for executives and for those who hope to become executives and who are willing and eager to read articles which will help them in their journey toward their goal. The editor does not have to "jazz it up" in order to have it read.

Perhaps I might offer a suggestion or two to executives who have a magazine at present and who intend to keep it.

The first of these is simply this: Don't make the editor unhappy by constant meddling. Decide how much money you want to spend and what kind of magazine you expect. Pass this information along to the editor and give him an opportunity to show what he can do. If he spends too much money or doesn't give you what you want, check with him to see if there is any misunderstanding. But don't try to edit the magazine. And be sure you know what you want. Some executives don't. And they seem to feel that the editor is not doing a good job if he fails to read their minds.

Expecting an editor to know what you want if you fail to tell him is like

walking into a restaurant and asking the waiter to bring you food. Let's suppose he brings you a steak. You look at it and say peevishly: "That's not what I want." He makes a second try and brings you chicken. You look at it without enthusiasm and ask: "Haven't you got anything else?" He comes back with roast lamb and you say: "Maybe a fruit salad would be nice."

**I**F you did that I feel confident that there are waiters, especially in some of the cheaper places I have frequented in less prosperous days, who would offer you a suggestion as to where you could go. Of course, an editor can't do that—especially if he wants to keep his job—but you can't stop him from thinking.

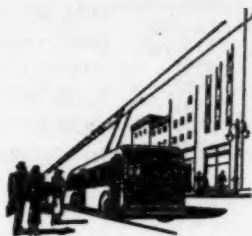
And perhaps I might offer a suggestion to the editors. The magazine may be your "baby," your pride and joy and all that sort of thing, but to the company it is an investment—or it ought to be. And it ought to pay dividends—dividends in the way of greater interest in the business on the part of the employees, greater loyalty to the organization, and therefore better work.

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**"P**UBLIC policy in this country has long recognized that four or five utilities serving the same area can be an undesirable form of competition. For that reason utilities are regulated and controlled by both state and Federal government. "TVA, on the other hand, is a monopoly that regulates itself. Power consumers in the area may or may not like TVA policy. There is ample evidence that some of them don't. But like it or not, they will take what they get unless they can prevail upon Congress to turn the heat on the authority."

—EDITORIAL STATEMENT,  
*Chicago Journal of Commerce.*

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## Special Rate Problems Of the Bus-transit Utilities

A discussion of the desirability of considering operation ratio as a basis of rate making for bus companies.

By JOHN F. CURTIN\*

THE function of determining an adequate return for a public utility by a regulatory commission involves considerably more than a mere arithmetical application of a nominal interest rate to the value of the company's property in the public service. Corollary with fixing the amount of return to be allowed is the necessity for providing some protection against its loss due to risk inherent in the operation of the business. Of even greater significance, however, in establishing utility rates is the necessity for assuring continuation of adequate service to the public, and the need for revenues sufficient to enable the company, under economical and efficient management, to provide such service.

The importance of this latter aspect is brought sharply into focus in rate making for a bus company engaged in local transportation. With other utili-

ties, the financial requirement for continued service, together with that for return to investors, protection of risk, and attraction of needed capital, is provided by adjusting the rate of return allowed on the value of invested property.

Plant investment aggregates three or more times the utilities' annual revenue, thereby providing a substantial rate base for production of a sufficient return at the allowed rate. But, for a bus company, the value of operating property is only a fraction of its annual revenues; the rate base is so narrow that the use of any rate of return normally considered produces a wholly inadequate amount to protect either the service or the investment.

Evidence of the wholly different nature of bus companies as compared with other utility enterprises is shown by the comparative ratios of gross plant investment to annual revenues in 1947:

\*For personal note, see "Pages with the Editors."

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<i>Utility Group</i>	<i>Ratio of Gross Plant to Annual Revenue<sup>1</sup></i>
117 Electric companies .....	\$3.95
53 Gas companies .....	3.72
7 Telephone companies .....	3.41
6 Water companies .....	8.14
12 Street railway companies...	2.33
12 BUS COMPANIES .....	.95

For each of the other utility groups, the total capital requirements are several times those of bus companies for the same volume of business. While this investment must also be protected against a sustained loss, it nevertheless does serve in the case of electric, gas, and other utilities as a substantial cushion to absorb rapidly rising operating costs until appropriate adjustment can be made in their utility rates. The broad rate base provides a marginal zone between the point where a company is earning an insufficient return and the point of actual loss from operations. But little such cushion exists for a bus company, due to the comparative insignificance of its rate base in relation to the volume of business handled.

THE difference among these utility groups is even further emphasized when comparison is made between the net value of operating property in relation to gross revenues:

<i>Utility Group</i>	<i>Ratio of Net Plant to Annual Revenue<sup>2</sup></i>
117 Electric companies .....	\$3.08
53 Gas companies .....	2.83
7 Telephone companies .....	2.29
6 Water companies .....	6.76
12 Street railway companies ...	1.56
12 BUS COMPANIES .....	.53

For the same dollar volume of service to the community, a bus company

only utilizes 10 to 25 per cent of the plant required by other utilities. Determination of return solely on the basis of net plant investment would yield only a similar fraction in amount for the same dollar volume of business handled and a greater dollar volume of business risk. The principles applied to other utilities in determining rates hardly can be applied to this industry, therefore. To do so only means that the street railway is entitled to earn three times as much return for handling the same number of passengers over the same distance — more than likely with less comfortable equipment and at a slower speed. With a bus company, consideration must be given primarily to the needs of the operation for sufficient revenues to enable it to meet operating expenses over a reasonable period, and earn a profit after payment of income taxes, without attempting to set a rate of return based on the value of operating property or net worth.

ORDINARILY, in manufacturing and trade industries, rapid turnover of capital is indicative of good financial management. The objective is to utilize plant and equipment to an extent consistent with the lowest operating cost and carry a minimum of inventory and other fixed costs necessary to operate efficiently. A high rate of capital turnover normally indicates a flexible, progressive enterprise. Application of historical principles of rate making such as generally are applied to other public utilities, however, would penalize a bus company for the exercise of good financial management in this respect. A bus company performs the same service that would be provided

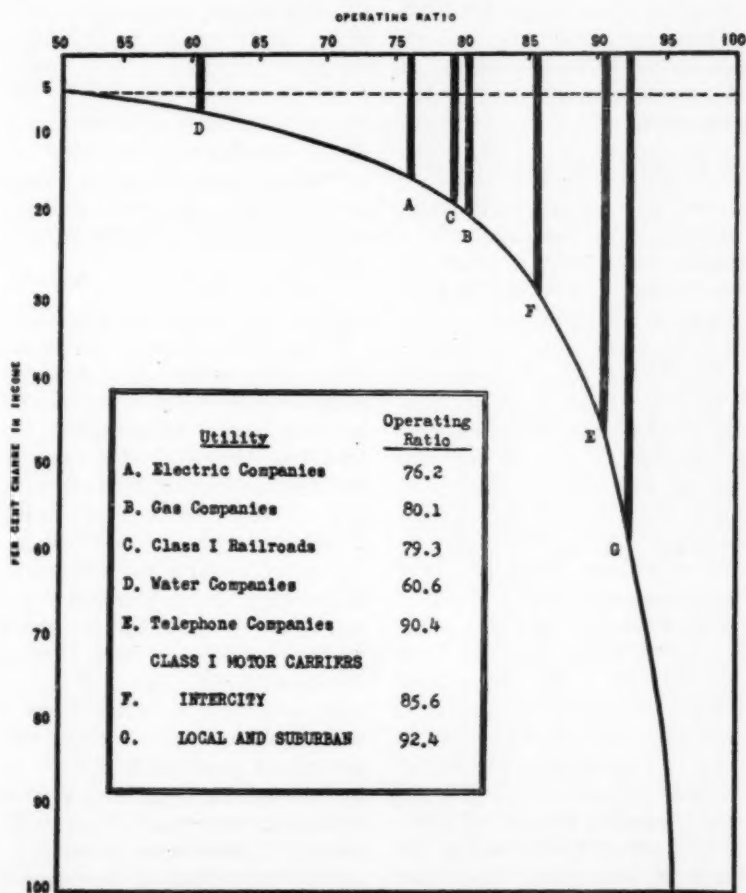
<sup>1</sup> Survey of utility securities, Jay Samuel Hartt, Chicago, Illinois.

<sup>2</sup> Survey of utility securities, Jay Samuel Hartt, Chicago, Illinois.

# SPECIAL RATE PROBLEMS OF THE BUS-TRANSIT UTILITIES

## PERCENTAGE CHANGE IN INCOME RESULTING FROM A FIVE PERCENT INCREASE IN OPERATING EXPENSES AT VARIOUS OPERATING RATIOS

1947



SIMPSON AND CURTIN

## PUBLIC UTILITIES FORTNIGHTLY

by a street railway property, with only a fraction of the investment in operating property required by the traction company. To the traveling public, bus operation is faster and more attractive. It hardly can be held to be in the public interest to penalize the modernization of local transportation by adopting the same principle of valuation for both types of service, when the more modern bus operation provides superior service and yet only requires a fraction of the operating plant.

### *High Proportion of Labor Costs*

**T**HE cost of conducting a business may be broadly divided into three components: (1) labor, (2) materials and services, and (3) capital. In a period of inflation, the proportion which each of these components represent of total operating costs and the degree to which each is subject to inflationary pressures determine the margin of protection required by the business. Particularly with the sponsorship of militant labor leadership, payroll costs have been the most rapidly rising element of operations. Not only have labor costs advanced higher, but they are the least flexible item of expense in operation of a business. The costs of materials and services have risen substantially during the last few years, reflecting pay raises in the industries supplying this component, but due to high volume production, the rise has not been as great as the cost of labor. The proportion of labor costs to the total cost of operations represents, therefore, the degree to which a particular industry is vulnerable to inflationary pressures.

In 1947, the cost of labor for local transit companies amounted to 56.8 per

cent of gross revenues, according to a recent analysis by Standard & Poor's Corporation.

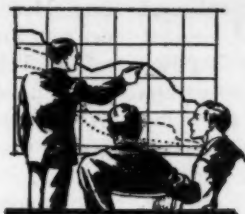
This compares with other utilities as follows:

	<i>Salaries and Wages As % of Gross Revenue</i>		
	1945	1946	1947
Operating Electric Companies	17.0	19.0	19.7
Class I Railroads .....	41.4	52.1	47.7
Natural Gas .....	..	13.1	13.4
Telephone .....	..	34.7	35.4
TRANSIT .....	45.8	51.0	56.8

Not only is the transit industry burdened with labor costs which are 20 to 190 per cent greater, but the rate of increasing cost from one "round" to the next is two to five times of other utilities.

**T**HE significance of relative labor costs can readily be demonstrated by the effect which the same wage increase has upon each of these utilities. If labor leaders should decide that a 10 per cent increase, for example, is the minimum acceptable to them, such a grant would involve an immediate increase of almost 6 per cent in the operating cost of a bus company. The same wage increase granted to the employees of an electric company, however, would only mean an increase in operating expenses of 2 per cent.

It is readily understandable then why transit companies are in a far more precarious position financially in a period of rising wage rates, particularly when the only remaining opportunity to absorb these costs is reduction of service to the public. In establishing rates, consideration must be given to these basic differences among utilities and, particularly, to the criterion which reflects the impact of prevailing conditions upon them.



### High Costs of Materials and Services

**“T**HE costs of materials and services have risen substantially during the last few years, reflecting pay raises in the industries supplying this component, but due to high volume production, the rise has not been as great as the cost of labor. The proportion of labor costs to the total cost of operations represents, therefore, the degree to which a particular industry is vulnerable to inflationary pressures.”

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### Significance of Operating Ratio

**I**N analyzing the financial well-being of an enterprise, one of the most significant yardsticks is the operating ratio. “Operating ratio” is the proportion which direct operating expenses represent of total operating revenue. For a bus company, direct operating expenses include maintenance and operating costs, depreciation, and taxes related to vehicular operation, such as gasoline taxes, registration fees, and similar items. The “operating ratio” does not take into consideration income derived from other activities than transportation, interest on debt, miscellaneous income charges, state or Federal income taxes.

The primary significance of operating ratio is that it affords a ready measure of proximity to the break-even point. It measures how close a company is to barely meeting its operating expenses, which in turn determines the margin of income protection for in-

vestors. Furthermore, the rate of change in operating ratio from one period to another reflects the leverage which economic forces have upon the financial condition of the business. This latter aspect is particularly important in present years because of the marked decline in traffic coupled with rising expenses and the lag in obtaining fare adjustments.

For years the Interstate Commerce Commission has made extensive use of operating ratio as the basis for determining the financial well-being of rail carriers. More recently, it has adopted this criterion in rate making for motor carriers. Recognizing the relatively low amount of fixed charges for motor carriers and the narrow spread between a company's net operating revenue and its net income, the Interstate Commerce Commission has turned to operating ratio as a more realistic measure of a company's continued ability to function.

## PUBLIC UTILITIES FORTNIGHTLY

The high operating ratio under which trucking companies operate was the basis for a rate increase<sup>\*</sup> granted in 1943, notwithstanding the fact that it resulted in an annual return of approximately 30 per cent on the value of operating property, after providing for income taxes. This same principle was also used in granting a rate increase to motor carriers early in 1948. Some state commissions, Massachusetts and Illinois particularly, have also given this aspect particular attention in considering fare applications for motorbus companies.

### *Range of Operating Ratio*

**I**NDICATION of the narrow margin within which the local bus industry operates in comparison with other utilities is reflected in their operating ratios for 1947:

<i>Utility</i>	<i>Operating Ratio</i>
Operating electric companies ...	76.2
Gas companies .....	80.1
Class I railroads .....	79.3
Water companies .....	60.6
Telephone companies .....	90.4
<b>CLASS I MOTOR CARRIERS</b>	
(a) INTERCITY .....	85.6
(b) LOCAL AND SUBURBAN	92.4

Except for the telephone industry, the margin of safety against rising costs in other utilities is two to four times that of the local bus industry.

The effect of this is demonstrated by considering what happens to gross income in each of these utilities as result of the same increase in operating expense. The chart on page 223 illustrates the drop resulting from a 5 per cent rise in operating costs with no changes in revenue. The income of the typical water company is reduced 7.6 per cent, while that of the operat-

ing electric company declines 16 per cent. Meanwhile, however, the same 5 per cent increase in costs cuts the typical local bus company's income 61 per cent—a reduction four times that of the electric property, eight times greater than that of the water property.

**I**F economic conditions held stable at the present levels, so that traffic volume remained relatively constant and the proportion of labor costs was unchanging, most bus companies would be in position to provide satisfactory service and realize an adequate return on a rate of fare adjusted for an 88-90 per cent operating ratio. This ratio would yield a net income after taxes in the order of 4 to 6 per cent of gross revenues, depending upon the amount of debt outstanding, income taxes, etc., and a somewhat higher percentage return on net investment in most cases. The same would be true if traffic volume or gross revenue was rising by the same relative amount as operating expenses, such as has been the case with some other utilities and most industrial groups during recent years.

While the situation may vary in some instances, an operating ratio above 90 per cent generally is warning of impending difficulties. Not infrequently, the first manifestation is a rising number of complaints regarding service. With an operating ratio in the low 90's, management is without leeway in adjusting schedules to accommodate shifting traffic and, therefore, in a constant turmoil to keep operations at a profitable level. Even with stable business conditions in a community, traffic on a particular bus route will change 10-15 per cent in a short period

<sup>\*</sup> Increased Common Carrier Truck Rates in the East. 42 MCC 633.

## SPECIAL RATE PROBLEMS OF THE BUS-TRANSIT UTILITIES

	Operating Ratio			Increase In %
	1945	1946	1947	
Intercity carriers .....	70.3	79.2	85.6	15.3
Local/suburban carriers .....	81.6	84.2	92.4	10.8



before any adjustments in service can be made. Any company in a tight financial situation is hardly in position to add extra service on a line with a temporary overload; the management is disinclined to incur the added operating costs, even with equipment available.

**T**HE result frequently is an incongruous situation: The company complains of barely being able to meet its expenses but the public refuses to believe it, since the busses are overcrowded. "With people jammed in the aisles, how can they possibly be losing money," the average citizen feels. Few realize the direct cause and effect relationship—that service is inadequate because the company is in a tight struggle financially.

Under present economic conditions, with a constantly declining traffic volume coupled with rising labor and material costs, the same operating difficulties for bus companies are met with an operating ratio in the high 80's. To provide a minimum leeway for operational changes and allow for the vicissitudes of traffic volume and rising expenses, it is necessary to adjust fares to an operating ratio of 85-87.

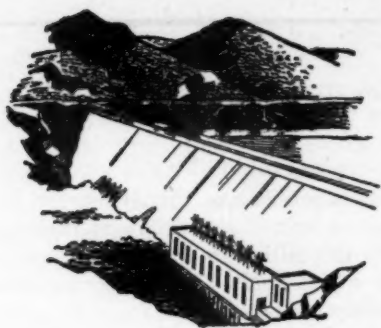
In the typical case, this ratio would provide a net income after taxes of 6 to 9 cents on the sales dollar. Compared with other industries, regulated and nonregulated, this proportion is rela-

tively meager. However, the low capital requirements in the industry hardly will justify a higher proportion, in the absence of particular circumstances.

**I**N fact, from an accounting viewpoint solely, the yield from a typical bus company's income statement at 85 per cent operating ratio is not unlikely to appear excessive on the basis of net investment. Any such limited analysis, however, fails to take into consideration the changing picture in this industry and the pace at which declining traffic and rising costs alter that picture. It is only necessary to examine the industry's experience during the past few years to see the comparatively short period over which any surplus might be accumulated.

The increase in operating ratio for all Class I motor carriers reporting to the Interstate Commerce Commission from 1945 to 1947 was as outlined above.

With an over-all rate of increase of 5 to 7½ per cent annually, an operating ratio of 85 only affords twelve months' protection against the recurrence of financial difficulties. Inasmuch as this is the usual period of the labor agreement, which governs the major expense element, it is felt that twelve months' margin is the minimum leeway to allow a carrier if he should be expected to provide adequate service to the public.



## Open Season on River Valley Authorities

*As the Tennessee valley project passed its fifteenth milestone, the 81st Congress considered President Truman's advice to apply its "lessons" to "our other great river basins." A review of recent publicity, critical and otherwise, on TVA.*

By GERALD M. WHITRIGHT\*

**J**UST the other day as this observer was wearily sifting through the avalanche of the annual reports and statements which descend upon the nation's capital shortly after New Year's Day, his eye came across a modest salmon covered booklet (300-odd pages), entitled *Annual Report of the Tennessee Valley Authority*. It covers fifteen fiscal years of operation.

To those who were in at the birth of TVA, so to speak, the sudden realization that TVA is now a grown-up child of the Federal government, causes a bit of nostalgic twinge and a consciousness of gray hairs. It is something like reading in the paper about Shirley Temple having a baby,

or Jackie Coogan suffering from baldness.

**I**T seems like only yesterday that the late Senator Norris, independent Republican of Nebraska, pleaded in Congress for the paltry sum of \$50,000,000 to get TVA started as an independent going concern. Then our reminiscences flashed back over a procession of other scenes—the controversy over the first "yardstick rates"; TVA counsel, John Lord O'Brian, conceding in the Supreme Court argument that TVA had no right to operate a steam plant; the ouster of Dr. Morgan for "contumacious" conduct; the \$80,000,000 deal between Director Lilienthal and Wendell Willkie; the Oak Ridge atom plant; and now a revival of

\*Of the editorial staff of PUBLIC UTILITIES FORTNIGHTLY.

## OPEN SEASON ON RIVER VALLEY AUTHORITIES

the steam plant controversy, which also was featured in the 80th Congress. This procession of things past makes us realize that TVA really has seen plenty of action, in its fifteen fiscal years of operation.

But more than that, one senses from some recent reports on TVA that a more mature and disinterested judgment about the nature of its operation is in the making. True, there are still a lot of American citizens who think about TVA as they think about religion—either believing in it as a wonderful revelation, or scorning it as an economic heresy.

ONE realistic attempt to balance the pros and cons of TVA and the "authority" concept was a book published last year entitled *Authority in TVA Land*, by W. V. Howard (186 pages, Frank Glenn Publishing Company, Inc., Kansas City, Missouri). The author is a geologist by profession, who taught for a number of years at Williams College and the University of Illinois.

He finds that TVA's engineering and constructing has been excellent, within the framework of the multipurpose pattern laid down for TVA. He finds that TVA's management, especially at the top level, has been sincere, competent, and aggressive. As to the benefits of TVA, however, he entertains doubts as to its financial success. As to its claimed "savings," he is frankly skeptical. As to the "authority" idea, itself, Howard is definitely opposed.

He feels that the intrusion of a supergovernment between the levels of the Federal Congress and the states—but strictly answerable to neither—is

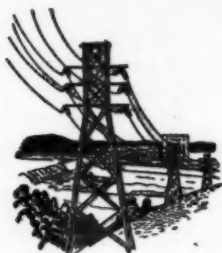
so dangerous that some other method of control should be found, even at the risk of not doing the job so well. He charges TVA with tending to become more a law itself, as its strength and states and overawe the Federal. Con-reputation dominate the subservient gross. In its avowed effort to avoid centralization of authority in Washington, he thinks the TVA idea has fallen (from a democratic standpoint) between the two alternatives, Federal and state responsibility. The last paragraph of his book reads:

To the America of today, the proper course of action seems to be to abolish the authority, retain its contributions to the idea of regional development of water resources, turn its useful functions over to existing agencies, and write the remainder off the books as a necessary cost of experience.

TVA's own fifteenth annual report presents, of course, a far more optimistic picture. Power revenues in the valley totaled \$48,770,000 in 1948, while flood-control and improved navigation operations on the Tennessee river resulted in savings of \$14,600,000 and \$3,000,000, respectively, the report said. It also asserted that the rate of economic progress in the region was appreciably ahead of the rate for the nation as a whole.

THE report stated that the nation is profiting in many ways from its investment in the Tennessee valley region. The proportion of individual Federal income taxes from the seven valley states has steadily increased and the cumulative increase from 1933 to 1947 has amounted to \$2 billion additional revenues to the Federal government, it added.

"On the basis of past experience and foreseeable future needs," the re-



### Tennessee Valley Authority

**“F**OR the first decade of its life TVA was an experiment; backed by smart and resourceful promotion—not to use that vulgar word ‘propaganda.’ For the last five years, it has been busy with its wartime duties and postwar consolidation. Now, Congress seems disposed to take a good look at TVA before wrapping up any more of our river valleys along the same pattern.”

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port predicts, “it appears that by 1952 the region will need, at a conservative estimate, 18 billion kilowatt hours. This amount of power is more than the present integrated system, with nearly 2,600,000 kilowatts of installed capacity plus the 883,000 kilowatts of hydro capacity being installed in the region, can provide. The TVA faces a vital need for a large addition to its steam-electric generating capacity to ‘firm up’ hydro power and provide primary power sufficient to meet the needs of the region for which it is the sole source of power supply.”

Practically two-thirds of the report consists of formal legal power contracts and agreements with municipalities, coöperatives, industries, and private power companies; all verbatim.

**Q**UITE a different picture of TVA was presented in another recent

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booklet (22 pages—published under the sponsorship of the National Association of Electric Companies, entitled *TVA's New Design for Power*. As explained in a foreword by P. L. Smith, president of the NAEC, this booklet purports to present facts about TVA's request for a steam plant at New Johnsonville.

The tone and aim of the publication are set forth clearly in an early paragraph of Mr. Smith's introductory page which reads, “The steam plant would put the Federal government outright into a commercial business, opening the way for nationalizing that business. The precedent would be created for the nationalization of other businesses.”

The story told by Mr. Smith is well known to most persons engaged in the electric utility business, but the feature of the booklet is the simple and con-

## OPEN SEASON ON RIVER VALLEY AUTHORITIES

vincing manner in which the situation is presented. For example, it explains that the benefits the TVA area enjoys are made possible only because the taxpayers in the rest of the nation help pay for them. It is also clearly shown that *private industries operated for profit and competing with industries in other sections of the nation are heavy users of this subsidized power.* This latter fact probably is not generally recognized by the public, nor by some of the new Congressmen.

The body of the booklet is set up in what is commonly called the question-and-answer form. For instance:

*Who pays for this?* You do. Your share in the costs of government is all the greater because of the government's loss of revenues resulting from making enterprises tax-free. The interest the government pays on the funds it advances TVA without interest is paid by the taxpayers. Other privileges of TVA are maintained at the cost of the taxpayers.

SEVERAL weeks earlier—shortly before the election in fact—the United States Chamber of Commerce analyzed the operations of TVA in a more formal study, entitled *The Real Cost of TVA Power* (91 pages), written by C. J. Green, engineer and accountant, formerly with the Federal Power Commission, and at one time chief engineer of the Oregon Public Utilities Commission. This booklet claims that TVA has been able to maintain its operations and rate position only because of “enormous” advantages such as taxpayers’ subsidies, low government interest rates, and its own method of computing costs.

The analysis, the chamber said, “corrects some popular and glaring misapprehensions” about the TVA, one of the first major projects of the Roosevelt New Deal. The study said there

is an “enormous difference” between computed direct costs under the TVA accounting system and costs, including interest and taxes, if the big project were under private management. This difference was termed “the measure of the taxpayer’s subsidy.”

Green based his study upon the two basic questions of what TVA has cost the United States Treasury—and taxpayers—since it was created in May, 1933, and what the results would be if the TVA were owned by a private utility company operating under a Federal Power Commission license.

Green found that from May, 1933, through June 30, 1946, the period covered by the analysis, Treasury funds invested in all TVA activity totaled \$742,386,524. From this he deducted \$74,525,261 in Treasury investments for projects not connected with river power and added \$44,394,436, representing water-power investments “omitted” by TVA in its accounting system, and arrived at a net power investment of public funds totaling \$712,255,699.

COMPARING the taxes paid by TVA with the taxes of ten neighboring private utility systems, Green found that the TVA, since its creation, has been obliged to pay \$155,287,363 less, in lieu of taxes. The author further charged that TVA has not been obliged to pay interest on Treasury investments in its power operations. This total unpaid interest was placed at \$78,309,109.

Attention is invited to the fact that Treasury interest rates are not available to private utilities, Green commented. Such companies must finance through private investment agencies.

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TVA pays no interest on Treasury investments.

Green asserted that in view of these public investment, tax, and interest factors, the difference between computed costs under the TVA accounting system and costs if the project were under private operating amounts to "well over 100 per cent." Referring to the comparisons TVA enthusiasts make between TVA rates and the rates of private utilities which are not subsidized by public funds, Green commented:

... this analysis might be summarized by the statement that there is a hope that TVA power plants can sometime earn enough to pay only the accumulated losses to the Treasury at a riskless 20-year interest rate. In equity to the remainder of this nation, TVA rates should be increased enough to absorb the full amount of the tax loss.

**I**N his preface to the report, D. J. Guy, manager of the chamber's natural resources department, raised the question of whether power is a function of the Federal government and an obligation of the nation's taxpayers. He asserted that TVA's proposal to expand its operations into the fuel-generated power field "would open wide the door" for the Federal government to enter the power business anywhere in the country.

Despite these critical reports there seem to be few men in public life today who do not profess some degree of admiration for TVA and its accomplishments to date. Yet, despite President Truman's prodding and his thumping big majority in the 81st Congress, the lawmakers seem reluctant to follow up TVA with additional river authorities. Why? Probably the answer is that the ferment of honest criticism is beginning to work. For the

first decade of its life TVA was an experiment; backed by smart and resourceful promotion—not to use that vulgar word "propaganda." For the last five years, it has been busy with its wartime duties and postwar consolidation. Now, Congress seems disposed to take a good look at TVA before wrapping up any more of our river valleys along the same pattern.

**O**LD-LINE government departments are frankly jealous and apprehensive of this new hybrid in government operation. Many state governors and many local and regional groups do not like the idea at all.

On one side, we have the TVA proponents, who say it is an ideal compromise between centralization and local area limitations—one which has "paid out" the equivalent of taxes, in addition to bringing vast benefits and ultimate national profits to the taxpayer. Its conservation of soil and promotion of natural resource development, and recreational facilities are said to be the direct fruit of its "comprehensive" regional autonomous approach to a bundle of problems which cannot and should not be solved by piecemeal development.

On the other side, its critics claim that TVA is a bankrupt institution which cannot pay the equivalent of taxes because it eats taxes instead of paying taxes. It is said to keep a crooked set of books and to misrepresent its true financial status by dodging the usual burdens and responsibilities of similar enterprise under private business control. Its "yardstick" is called a discredited fake no longer championed even by TVA zealots. The very fact that TVA now wants a steam

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plant, is held to be a confession of TVA's original refusal to believe that modern steam engineering can produce power more cheaply than over-all river development. Oak Ridge had to build its own steam plant, they point out, and TVA bought its surplus.

SOMEWHERE between these two extremes, Congress will decide. Perhaps even more significant from the standpoint of a possible socialistic trend was the recent hint of President Truman of the entry of the "yardstick" in

other industrial fields—steel or perhaps copper.

Is this the thin edge of the wedge, the foot in the door, the "down payment" argument that has characterized TVA's steady march to power and a permanent place on the American scene? Is the steel industry, today, in the same spot where the electric power industry stood, during the pre-TVA era of the Norris agitation? If so, where do we go from here? Maybe Sir Stafford Cripps could give us a few pointers.

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### Shall the Government Do Everything?

“ACCORDING to a news article in the *New York Herald Tribune*, Henry J. Kaiser has called for a 'greatly increased program of public power development.' Among his reasons for this is that private capital can't do the job—and that, in addition, the government can provide the power at a lower rate.

“Taking the second reason first, one wonders how Mr. Kaiser would react to a proposal to have the government build motorcars, which is one of the industries in which he is active. The government could sell them cheaper than a private maker. It wouldn't have to pay taxes. It could allocate scarce materials to suit itself. In order to lower prices it could apportion part of its cost of manufacturing to public projects and draw on taxpayers for deficits. That is what it is doing in the electric power field throughout the country.

“As for the inability of the private utilities to meet our power needs, the record speaks louder than words. The biggest and most costly expansion program in the industry's history is now under way. Within three years, the capacity of the business-managed utilities will be nearly 50 per cent greater than in 1947. The only place in the country where the industry is prevented from building facilities sufficient to meet expected future demand is in those regions where tax-subsidized government power monopolies make it impossible.

“If we want a socialized economy, in which the government provides all the basic goods and services, let's say so. But why single out for socialization one great industry with an unsurpassed record of public service?”

—EXCERPT from *Industrial News Review*.



## Washington and the Utilities

### *The Race between Authorities*

POPULARLY overlooked in the wave of publicity over foreign affairs, repealing the Taft-Hartley law, and the threatened Senate filibuster to end filibusters, is the contest warming up in Congress as to which "authority" will get off to a clear start for congressional approval and whether any of them will finish at the final tape on the White House desk. The Columbia Valley Authority seems to be the favorite at the moment—thanks to the impetus given by the recent recommendation of President Truman that such legislation be promptly prepared for submission to the Congress.

But the proponents of the Missouri Valley Authority are not prepared to sit idly by and watch the CVA run away with all the advantage of a fast start and inside position. Still hovering in the background is the St. Lawrence seaway proposal which the guessers on the Washington scene are reported to pick as the new Federal power project most likely to survive the hurdles of opposition, inertia, and general competition for the taxpayer's dollar from other classes of spending promoters.

As the contest now shapes up, it looks as if the CVA will make its opening bid for progress in the House, while the MVA promoters will launch their project in the Senate. Since the public did not know at this writing what form the administration has in mind for the St. Lawrence legislation, it was difficult even to guess which chamber would witness the debut and major effort of the St. Lawrence promoters.

It can be said, however, that the MVA backers are not pleased by President

Truman's nod to the CVA, which seems to suggest priority for that project. The MVA supporters had expected that he would give a big, unqualified endorsement for authority programs in general and the MVA in particular in both his opening message to Congress and in his budget message. He did neither. He endorsed "authority" programs in terms so qualified that observers are wondering if there was not a faint note of skepticism about the wisdom of a uniform "authority pattern" along the lines of the Tennessee Valley Authority. It was noted that the President had avoided calling for a mere repetition of TVA, but had simply said that we must apply TVA lessons to "our other great river basins." One inference is that some lessons were learned, as a result of our TVA experience, which might make it unwise to apply a stereotyped TVA pattern elsewhere.

Of course, the President has stated in his press conferences repeatedly that he favors MVA, and one time he said he favored the MVA Bill introduced by Senator Murray (Democrat, Montana). It is expected that the President will recommend MVA again some time during the session. But there was disappointment in the MVA camp a couple of weeks ago when President Truman advised certain Congressmen, informally, that nine out of ten Missouri river basin states, including Missouri, were opposed to MVA. He gave that as a reason why MVA, as such, was omitted from recommended budget appropriations.

Needless to say, this cooling off of presidential enthusiasm for MVA was not taken kindly by Senator Murray and the freshman Senator Humphrey (Democrat, Minnesota), who campaigned for

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MVA. Murray said later he thought the President had intended to say nine out of ten Missouri basin governors, rather than Missouri basin states. Senator Humphrey thinks that the President is being influenced by advocates of the Army Engineers-Reclamation Bureau plan, who are steadily going ahead sawing wood on the Missouri river development work and making new friends and influencing more people with every lick in that direction. Humphrey said that he would not step aside simply to see CVA go ahead first.

It must be remembered that the President's request for creation of a CVA was not a message to Congress, nor was it a specific recommendation. Ostensibly, it was simply a memorandum inviting the views of the Secretaries of Interior, Commerce, Agriculture, Army, Budget Director, and the Council of Economic Advisers on the drafting of such legislation. But, as a matter of fact, the President was telling them, not asking them, about certain general factors he wanted to be considered and therefore it is to be regarded as a statement of policy rather than a mere call for ideas.

It apparently has been taken as such by Secretary of Interior Krug, who forthwith stated that the general authority setup was to be taken as department policy. It would appear from all this that the President obviously thinks CVA has a better chance than MVA. CVA already has much of the actual plant built and operating, and the changeover would involve superficially simply a paper reorganization. But, as a practical matter, it would also involve the surrender of control of certain budget items by the Department of Interior. Old-line departments usually do not make such surrenders without a struggle.

The House launching of the CVA Bill probably will be sponsored by Representative Mitchell (Democrat, Washington), who sponsored similar legislation in the 79th Congress in which he was a Senator. Representative Mitchell has conferred with the President and has always been in close touch with the Depart-

ment of Interior. For this reason, it was believed likely that the forthcoming CVA Bill will not be a faithful carbon copy of the Tennessee Valley Act by any means.

Both the President and Representative Mitchell understand that some window dressing is necessary to satisfy "home rule sentiment," and there is also the powerful pressure to keep the Department of the Interior in the picture. So the result may be a kind of hybrid measure, similar to the old Mitchell Bill, which featured an advisory board of directors appointed by state governors, but with over-all supervision by the Secretary of the Interior. Just how such a bill—which would be neither fish nor fowl as far as the orthodox TVA concept is concerned—would be received remains to be seen.

Another CVA Bill (HR 427) already has been introduced and follows the TVA lines more closely. But its author, Representative Jackson (Democrat, Washington), has not been in close touch with the White House.

OVER on the Senate side, Senators Murray, Humphrey, and Gillette (Democrat, Iowa) were shaping up their final draft of an MVA Bill which also is likely to contain some features of the Mitchell Bill, and maybe the governors' conference committee—a sop to the "home rule" zealots, but without actual managerial power. More window dressing, to appease certain elements, would involve a change of label ("administration" instead of "authority"), and a new provision for an economic program—another advisory committee, composed of labor, agriculture, business, and Federal government representatives. And the Army Engineers would be left in control of dam construction. Nevertheless, discounting the gingerbread additions, this MVA Bill is likely to follow the TVA pattern more closely than the forthcoming CVA measure.

### *Synthetic Fuel Plan Hit*

SECRETARY of Interior Krug may not pay too much attention to a recent

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report submitted at his request by the National Petroleum Council. This is because the council plainly called for a national oil and gas policy with a minimum of government control, which seems to be going counter to the present emphasis of the administration for more and more government control, especially in the field of natural resources. In any event, the National Petroleum Council believes that government functions should be confined to maintaining a healthy industry and "safeguarding the public interest." It also stated that the development of a synthetic liquid fuels program is a job for private industry. The council thus indicated opposition to bills now pending before Congress that would authorize a Reconstruction Finance Corporation lending fund of \$500,000,000 to launch a synthetic fuel program. It will be recalled that a "down payment" of \$90,000,000 was called for in the President's budget to start this program.

The report further stated that Federal and state laws should encourage private natural gas and oil reserves development. Conservation problems are being ably handled by the Interstate Oil Compact Commission, the council contends, adding a recommendation for expansion of that device as a national policy.

### *The NRECA Meeting*

THE annual convention of the National Rural Electric Coöperative Association, held in New York city beginning January 31st, provided a definite postelection "victory" theme—despite the supposedly known partisan appeal of the REA program, to which the NRECA is dedicated. The speakers included Secretary of Agriculture Brannan, Secretary of Interior Krug, Presidential Adviser Steelman, REA Chief Wickard, and various NRECA officials. Republican Senator Aiken of Vermont provided a touch of bipartisan color. The convention adopted various resolutions designed to exploit the present public spending trend.

Criticism was directed at Wall Street,

the business-managed utilities, shortages of vital metals, and tax equality movement. The shortage of electric conductors seems to be one of the most worrisome nonpolitical problems of the REA co-op association. Among corrective means considered was a recent contract between the Reynolds Metals Company and the Wisconsin Electric Coöperative for the manufacture of aluminum conductors for co-ops over a period of fifteen years. REA Administrator Wickard said this "offers a bright ray of hope on what otherwise is a darkening picture in this field."

Other items on the NRECA agenda which received favorable consideration were (a) a recommended REA staff increase; (b) amendments to the Rural Electrification Act to provide for large transmission lines, generating facilities, easing of service area population restrictions, and rural telephony; (c) encouragement to the proposed congressional lobby investigations—especially "selfish interest" lobbies; (d) a "united front" joined by all public power bodies to resist utility educational programs.

But judging from the on-the-spot atmosphere prevailing in the Commodore hotel, during the NRECA meeting, the one thing that really seems to be most troubling both REA and NRECA officials these days is the Hoover Commission report for reorganization of the Agriculture Department, including REA. NRECA began sniping at the Hoover Commission last December, calling attention to the background of staff members regarded as unfriendly to the REA.

At this writing the official Hoover Commission report on Agriculture Department reorganization had not been released, but a widely published advance report had it that the Hoover Commission would recommend the abolition of REA, as such. Its functions would be transferred to an over-all "Agricultural Credit Administration" in which would be combined a half-dozen or more other farm loan agencies now functioning independently. The idea would be to put all the departments' banking business under the same coördinated control.

# Exchange Calls And Gossip



## *Telephone Depreciation Prescribed by FCC*

**A** MOST important development in the controversial "depreciation expense" question was announced recently by the Federal Communications Commission.

The agency has prescribed depreciation rates for the Michigan Bell Telephone Company, effective January 1, 1949. This is the first time FCC has formally determined such rates for a telephone company. The executive committee of the company's board of directors has agreed to the prescribed rates.

The rates are expected to produce depreciation expense for 1949 of about \$11,000,000, or a reduction of about \$750,000, when compared with the expense of nearly \$11,750,000 which would have accrued under rates proposed by the company.

The schedule of depreciation rates was developed in the course of conferences among representatives of Michigan Bell, the Michigan Public Service Commission, and staff members of FCC. Similar procedures have been in progress with respect to several other Bell telephone companies.

In FCC's public announcement was contained the following explanatory paragraph:

Proper control of depreciation rates is highly important in all considerations directed to the determination of reasonable rates for telephone service. The depreciation rates are applied to plant investment to determine the amount of depreciation expense recoverable from telephone users. Depreciation expense claimed by the Bell system amounts to approximately \$275,000,000 annually, or about 13 per cent of that system's total current operating expenses of about \$2 billions. Moreover, the amounts recorded annually as

depreciation expense are accumulated into a reserve, known as the depreciation reserve, which is deducted from plant investment as a step in determining the "net investment" on the basis of which a "fair return" is also sought from telephone users. These reserves amount to approximately \$2½ billions, or about 31 per cent of the Bell system's plant investment of over \$8 billions.

**F**CC made it clear that the depreciation rates prescribed are subject to modification in accordance with the provisions of § 220(b), should any changes in facts and conditions occur subsequent to January 1, 1949, which would indicate that revision is necessary.

The Michigan Public Service Commission did not interpose any objections to FCC's determination. However, the Michigan commission did stipulate that its agreement to the rates could not be taken or construed as any bar or waiver of its right or authority to adjust "lump sum amount of depreciation as operating expense for rate-making purposes in pending or any other case" before the commission.

## *Juke Box Television*

**I**NGENUITY in communication circles has no limits. A juke box type of television now is being offered. Merely drop your coin and select your own entertainers; six minutes for a nickel. Also, it is reported on good authority from New York city that the 5-cent cigar has reappeared. These developments should result in considerable pleasure.

The television device is called the Solotone Entertainer, and it is manufactured in Los Angeles. The gadget is versatile since it offers a selection of four video programs and a choice of ten records.

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Designed primarily for use in public eating and drinking places, it offers profit possibilities for tavern owners. As the situation now stands, the proprietor must pay for ordinary television out of his own pocket while losing revenue from the record juke box due to the fact that customers are looking and listening "on the house" without contributing coins.

Now the customer will pay.

Selector boxes will be scattered about on counters, bars, and booths; and several television sets will be located in various locations about the room. Each selector box contains a 6-inch loud-speaker which produces the desired sound program. If a patron in an adjoining booth wishes to watch your program he may do so but he can't receive the voice reproduction unless he deposits a nickel in the appropriate slot.

### *Labor's Interest in Rate Cases*

ONE normally would think the labor organizations would put their weight behind increased rates for telephone companies. This would make wage increases easier to obtain, since the public would pay the increased revenue. But the Communications Workers of America apparently has some different ideas.

To date, this organization has intervened, formally and informally, in telephone rate cases in five states—Nebraska, Indiana, California, Washington, and Maryland. Contemplated next are interventions in rate cases involving Cincinnati & Suburban Bell Telephone Company and the Illinois Bell Telephone Company.

In the Indiana case, CWA definitely has opposed a rate increase. There are indications that a similar position may be taken in the Cincinnati case. What is the reason for such seemingly unorthodox attitude? Here is the union's answer: This particular labor organization, which represents about 230,000 telephone workers, says it does not wish to be blamed for rate increases granted by state public service commissions. CWA officials take the position that large rate increases

are being granted and contemplated, with increased wages presented as the main reason. This, they don't like. Authority for the above statements cannot be doubted.

It so happens that some members of the union do not understand the situation just mentioned. In an effort to enlighten them the *CWA News*, dated February, 1949, carried an editorial headed "Why Intervention." It introduces a different angle, stated in part as follows:

Phone workers are . . . entitled to know that their piddling little pay boosts are being blamed by the company for a situation brought about by a too rapid expansion program, so rapid indeed that demand for telephones hasn't been able to keep pace with it.

The companies are uniformly asking for increased rates based on this overexpanded plant, seeking to saddle the present subscribers with rates high enough to pay interest on millions of dollars worth of plant that won't be put into service for years to come—in some cases, perhaps never.

CONSIDERING that other utility unions have not moved to block rate increases, and have even actually supported them in some instances, it appears that someone is confused. CWA claims that it is the state regulatory bodies. The union states that the state commissions are understaffed and inadequately financed. It intimates that in some cases they are "far too friendly with company officials for the good of the public."

The fat is in the fire. The union members may be inclined to believe their leaders. It is interesting to note that near the close of the editorial the statement is made that "FCC has a much better record in the matter of rate control than have the state commissions."

### *Minimum Wage Legislation*

SMALL independent telephone companies are properly worried about proposed congressional measures to increase the minimum wage from 40 cents to 75 cents per hour. It is the consensus that many little companies will be forced to abandon ship if burdened with such an increased cost. However, there is some hope in ultimate compromise.

## EXCHANGE CALLS AND GOSSIP

At present, the exemption of small telephone exchange operators from wage-hour regulations is threatened by a sudden move in the House Labor Committee. The committee's chairman, Representative Lesinski (Democrat, Michigan), has a bill prepared and ready for expected early action by the House. Labor bloc strategy on this bill is to get quick approval from the prolabor majority in the lower house before opposition crystallizes.

However, this Lesinski Bill does not erase the telephone industry's exemption completely. The present law exempts from wage-hour regulation all operators' wages at exchanges serving 500 stations or less. The new bill provides for exemptions in exchanges where only one operator is on duty at a time. Practically speaking, it is estimated roughly that this exemption would apply to exchanges having about 100 stations or less. The bill was drawn by Lesinski's assistant, Frank Hook, former Representative from Michigan. Another provision expected to be added to the bill, would restrict the exemption of Western Union messengers to telegraph agencies doing an annual volume of business of \$750 or less.

On the Senate side, a subcommittee is proceeding with a companion bill by Senator Thomas (Democrat, Utah), which does not carry forward the telephone operator exemption at all. But it is understood that Thomas did agree, at one time, to consider its restoration.

### *Rate Increase Opposition*

**I**NSTANCES of state and local governmental opposition to telephone rate increases are being reported at an accelerated pace.

Cities and towns numbering in the hundreds are placing their formal objections to advanced rates before the state regulatory commissions. State authorities are appealing to state supreme courts. Most recent instance of this type was in Rhode Island.

In North Dakota, the state senate judiciary committee has voted to investi-

gate the public service commission for its recent order granting higher rates to the Northwestern Bell Telephone Company. Senator Carroll Day, Grand Forks, chairman of the committee, said the present commissioners and former commissioner, S. S. McDonnell, would be summoned before the committee to explain why the rate increases were granted "without sufficient hearings." The rate increase was granted early this winter when McDonnell still was a member of the board. Rate increases, even though tentative, have been questioned in several states where no public hearing was held or required.

In California, the rules committee of the state assembly is debating whether or not to investigate and determine the merits of the latest application of the Pacific Telephone & Telegraph Company for a rate boost.

In Delaware, the head of the Wilmington city utility commission stated publicly that the Diamond State Telephone Company had no authority for sending out notices of a rate increase to city subscribers, until the commission has determined that the boost is warranted. There seems to be some legal question about this.

**S**OUTHWESTERN BELL TELEPHONE COMPANY probably faces court proceedings before it is enabled to get clear title to its recently authorized rate increase. The Missouri Public Service Commission has denied petitions of cities and communities for a rehearing of the case, which involves a rate increase of \$3,228,529 a year. The commission voted 3 to 2 in favor of Southwestern. The rate increases have been put into effect. No bond was required by the regulatory agency. Kansas City plans to appeal the decision as quickly as possible to the Cole County Circuit Court. The *St. Louis Post-Dispatch* claims in an editorial that the commission split three ways. Two commissioners were willing to give the company all it wanted; two thought the requests were "excessive"; and a third thought the company should receive even more.



# Financial News and Comment

By OWEN ELY

## Federal Taxes

**O**PINION now seems to have "jelled" that there will be no excess profit taxes imposed in 1949. In the twelve months ended September 30, 1948, Federal income taxes for all electric utilities amounted to \$291,675,000, and assuming that the income and surtax rate were raised from 38 per cent to 45 per cent, there would be an increase of about 18 per cent or \$53,000,000. With net income for the year estimated at around \$655,000,000 and preferred dividends at \$97,000,000 the balance for common stocks in 1948 may approximate \$558,000,000. The higher tax rate would thus reduce equity earnings nearly 10 per cent, it is estimated. If the November rate of gain in net income should be maintained in 1949, however, most utilities might be able to absorb the higher tax without too much difficulty. However, the effects of the tax would be irregular. Some old-line stocks, particularly those in New England, which have a high proportion of common stock capital and hence pay out a larger proportion of income in common dividends, might be affected to a greater extent than the stocks of other companies which pay out only 50-70 per cent of earnings.

**I**N any event the tax would be an unfair burden on the utility companies, whose earnings in recent years have shown only a slight increase as compared with the huge gains shown by industrial and rail earnings. A much fairer method

of increasing corporate taxes (if this proves necessary to balance the budget) would be to restore the tax on undistributed income. It is true that this tax, when in operation a few years ago, proved rather unsatisfactory, but at that time corporation earnings were much lower and the proportion of unpaid dividends was considerably smaller. In 1929 all corporations paid out nearly 70 per cent of their earnings. In 1937 practically all the earnings were paid out in dividends and in 1940 about two-thirds. Now this trend is reversed—corporations are paying out only about one-third of their earnings and the proportion is lower for many industrial companies.

The reason for this smaller pay-out is, of course, not far to seek. Industrial companies are reinvesting most of their earnings in plant, instead of raising the needed funds through security flotations. They are probably motivated by the fact that this is a bad time to raise equity money in the stock market. (The last good time was in the spring of 1946, when new offerings were popular for a short time.) Such equity money as is obtained in the stock market is usually raised through stock subscription rights.

But may not the low price level for stocks be due largely to the reluctance of the corporations to pay out more dividends? Dividends are usually a potent force in stimulating stock prices. Withheld earnings do the average stockholder no good, unless he sees some hope of getting bigger dividends within the near

## FINANCIAL NEWS AND COMMENT

future; and present corporation policies do not encourage this hope, particularly with a moderate business decline in the offing. The recent sharp advance in U. S. Steel on the announcement of the 3-for-1 split and an increase in the dividend indicates what can be accomplished in this way toward popularizing stocks and raising prices. Moreover, Washington seems to lean toward the view that corporations should be more generous to stockholders. A bill is being introduced in Congress to do away with the double taxation of dividends, which if enacted would be a big help in raising equity capital.

THE point of this discussion is that instead of increasing the corporate tax rate the government might well place an equivalent revenue-raising tax on retained earnings. It is true that there is at present a general provision in the tax law by which the Treasury Department can tax earnings if retained for unwarranted reasons, but this hardly applies to amounts retained for increased working capital and construction needs. If the corporations were forced by direct taxation to increase their dividend payouts this should force stock prices higher and make it easier for corporations to do equity financing. Such a policy would be popular with stockholders, who need larger dividends to help with their cost of living, higher taxes, etc.

Such a tax would be a much fairer method of treating utilities. If they were permitted to retain 25 per cent of earnings free of the new tax, this would stimulate a slightly increased pay-out (which now averages around 70 per cent). Utilities now following a generous dividend policy would avoid any increased taxation.

Elimination of double taxation of dividends (by exempting dividend income from individual tax payments), together with a restoration of the tax on retained corporate income, would seem the best policy for the government to follow, for the dual purpose of increasing government revenues and stimulating equity financing by corporations. Certainly such a policy would be fairer to the utility

companies than a straight increase in the tax rate.

### *A Contrast in Rate Regulation*

THE recent regulatory treatment accorded Detroit Edison and Consolidated Edison by the utility commissions in Michigan and New York states was in marked contrast. Some time ago Detroit Edison, which had been earning about 4.8 per cent on its indicated rate base, applied to the Michigan Public Service Commission for permission to amend its electric rate schedules by (1) decreasing to 3 per cent all prompt-payment discounts in excess of that amount, and (2) adding a fuel adjustment clause to its residential and commercial rate schedules. The commission entered an interim order permitting the company on and after July 7, 1948, to reduce all prompt-payment discounts to 4 per cent. This increased annual revenues by about \$5,000,000, as compared with the estimated amount requested of \$11,300,000. In September the company asked for an increase over the original application, to compensate for a further jump in expenses during the period that the request had been pending. The city of Detroit opposed the entire application, but the Michigan Supreme Court denied certiorari to review the interim order and refused a rehearing (without prejudice to the city to seek a review by any other means).

THE commission on January 7th granted the company an increase of \$13,080,000 on a permanent basis, superseding the interim increase of \$5,000,000. After adjustment for Federal income taxes the estimated gain in earnings was equivalent to nearly \$1 a share on the common stock, raising the earnings from \$1.40 in the twelve months ended September 30th to an estimated \$2.38 a share.

On the other hand, Consolidated Edison recently received a huge rate cut from the New York Public Service Commission. Chairman Maltbie (now retired) on December 30th ordered a re-

- ① Eliminate double tax
- ② Restore eqt.

## PUBLIC UTILITIES FORTNIGHTLY

duction of \$21,500,000 in electric rates. At the same time he granted an increase in gas rates of \$11,440,000, making a net reduction in revenues of about \$10,000,000. Both changes were on a "temporary" basis but, while there was no time limit set for the reduction in electric rates, the gas increase will end on the last day of 1949 unless a permanent increase is allowed in the meantime. The cut in electric rates was effected by a straight 10 per cent reduction to retail customers (exclusive of the fuel surcharge).

The estimated effect would be to reduce share earnings of \$2.31 for the calendar year 1948 to \$1.81, as compared with the dividend rate of \$1.60. At the same time the company is threatened with a strike March 1st by CIO union members, which comprise about five-sixths of its employees, and who demand increased annual compensation and allowances of about \$23,000,000.

**T**HE cut in electric rates imposed against Consolidated Edison was fully explained in the 21-page decision (Case 12455); the gas decision (No. 13423) required 44 pages. In the former decision, Chairman Maltbie held that net earnings from electric sales were 50 per cent too high. In working out this result, the rate base claimed by the company (virtually original cost less depreciation) was first reduced by over \$100,000,000. Net earnings were then increased by \$2,278,888, reflecting a cut in depreciation accruals, although the commission had already (in the bond refunding case) ordered another reduction. Finally, only 5 per cent was allowed as "fair return" on the rate base, which is permitted under a special New York law where the rate change is "temporary." It may be questioned whether the law was intended to apply to such an important case, especially where rates had been under investigation for two and a half years.

President Tapscott, in discussing the decision, pointed out that the reduction had come at a most inopportune time. The company had already expended \$185,000,000 since the war for new construction, and in the next four years must

spend an additional \$250,000,000. He stated:

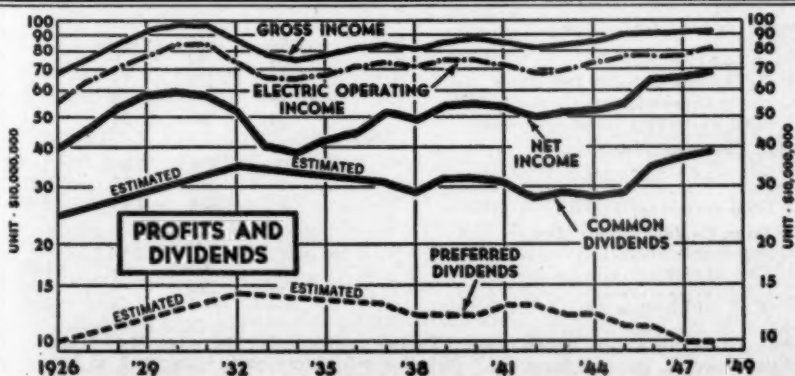
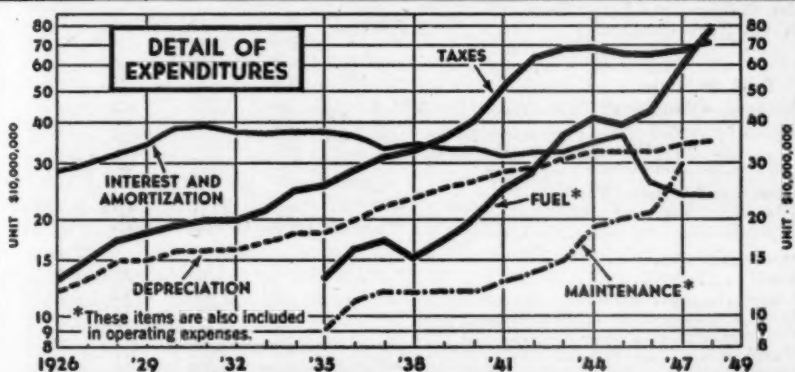
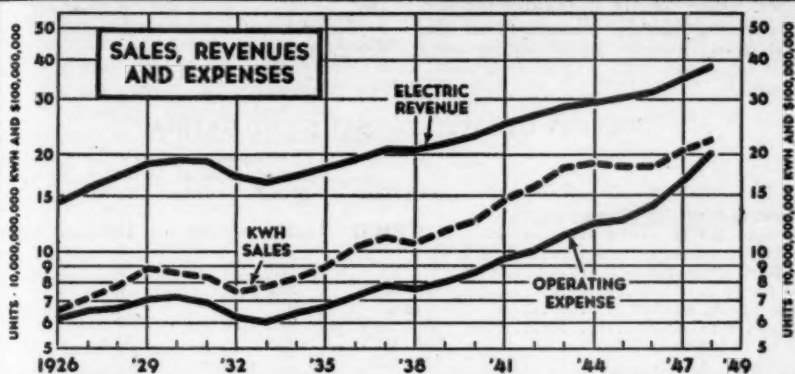
"These big costs have increased the company's debt, and a rate decrease at this time will make the company's problem of getting new money for plant expansion extremely difficult. The company's common stock has been selling below its book value. The company's outstanding debentures, convertible into common stock, have not been converted because the earnings of the company, even before the rate reduction order, were not sufficient to induce people to convert. This rate order if accepted would practically preclude the company from getting new partners in the business with equity capital. The order infers that the company should either fail to provide for the public's needs or should go dangerously into debt to do it. . . . The company must therefore seek relief in the courts from this punitive order of the commission which endangers our capacity to serve the public."

### *November Earnings Favorable*

**T**HE income statement for Class A and B electric utilities, now available in preliminary form, makes encouraging reading. Residential sales, the most prosperous part of the business, were up 14.4 per cent, reflecting the big housing program as well as the increased use of appliances. Commercial sales gained 9.9 per cent and industrial service 8.4 per cent, and the over-all gain was 9.4 per cent. On the revenue side, residential returns increased 12.4 per cent, reflecting the lower rates paid with higher usage, under promotional rate schedules. Commercial revenues gained 10.8 per cent and industrial sales 12.5 per cent. These percentages (particularly for industrial) were higher than the kilowatt-hour gains, indicating larger use of fuel adjustment clauses, reduced discounts for prompt payments, and straight increases in rates.

On the expense side, fuel expenses continued to make a better showing, November's gain over last year being only 19.7 per cent compared with a 44.6 per cent increase in the month of June. Salaries and wages gained 11.8 per cent and miscellaneous expenses 13.6 per cent. Depreciation was up 6.8 per cent—about

## TREND OF SALES AND EARNINGS OF ELECTRIC UTILITIES



# PUBLIC UTILITIES FORTNIGHTLY

in line with increased capacity — and taxes gained 10.7 per cent. Operating income from electricity was 6.7 per cent larger. Other utility operating income, representing largely manufactured gas (with some transit, water, steam, etc.)

showed a jump of 200 per cent over last year, reflecting belated rate increases, more efficient plants, and better, cheaper fuel.

Miscellaneous income also gained 9.5 per cent.

## CURRENT UTILITY STATISTICS AND RATIOS

		Amount		Per Cent Increase	
	Unit Used	Latest Month	Latest 12 Mos.	Latest Month	Latest 12 Mos.
<b>Operating Statistics (Nov.)</b>					
Output KWH—Total .....	Bill. KWH	24.2	280	11%	11%
Hydro generated .....	"	6.6	—	8	—
Fuel generated .....	"	17.6	—	12	—
Capacity .....	Mill. KW	55.7	—	8	—
Customers, number .....	Mill.	40.5*	—	6	—
Fuel Use: Coal .....	Mill. tons	8.6	—	7	—
Gas .....	Mill. MCF	39.7	—	31	—
Oil .....	Mill. bbls.	3.6	—	D7	—
Coal Stocks .....	Mill. tons	27.4	—	45	—
<b>Sales, Revenues, and Rates (Nov.)</b>					
KWH Sales—Residential .....	Bill. KWH	3.5	39	14%	14%
Commercial .....	"	2.9	38	9	13
Industrial .....	"	9.2	106	8	9
Total, incl. misc. ....	"	21.6	250	9	10
Revenues—Residential .....	Mill. \$	107	1,205	12	11
Commercial .....	"	82	939	11	13
Industrial .....	"	105	1,181	13	13
Total, incl. misc. sales .....	"	362	4,121	12	13
<b>Revenues and Income (Nov.)</b>					
Elec. Rev., incl. misc. rev. ....	"	362	4,121	12%	13%
Misc. Income .....	"	8	115	60	D5
<b>Expenditures (Nov.)</b>					
Fuel .....	"	68	763	20%	33%
Labor .....	"	68	800	12	12
Misc. Expenses .....	"	64	732	14	16
Depreciation .....	"	30	355	7	8
Taxes .....	"	61	692	11	7
Interest .....	"	19	209	16	10
Amortization, etc. ....	"	2	31	D50	D40
<b>Earnings and Dividends (Nov.)</b>					
Net Income .....	"	58	655	13%	3%
Preferred Div. (est.) .....	"	8	97	1	—
Bal. for Common Stock (est.) ....	"	50	558	15	3
Common Dividends (est.) .....	"	30	393	4	4
Balance to Surplus (est.) .....	"	20	165	54	11
<b>Utility Financing (Nov.)<sup>2</sup></b>					
Bonds .....	"	432	2,570	D6%	D21%
Stocks .....	"	48	394	17	D21 <sup>1</sup>
Total .....	"	480	2,864	D4	D8 <sup>1</sup>
<b>Life Insur. Co. Investments (Dec.)<sup>3</sup></b>					
Utility Bonds .....	"	—	19	—	D34%
Utility Stocks .....	"	—	0.3	—	D69
Total .....	"	—	19.3	—	D44
% of All Investments .....	"	—	7%	—	D39

\*At end of November. D—Decrease. <sup>1</sup>Twelve months ended December 31st. <sup>2</sup>Data for all utilities (electric, gas, telephone, etc.), including refunding issues. <sup>3</sup>January 1, to January 22, 1949.

## FINANCIAL NEWS AND COMMENT

WHILE interest charges increased 15.6 per cent for the month, this was almost offset by a sharp decrease in miscellaneous deductions, so that total fixed charges gained only 2.7 per cent. Net income, as a result of this favorable combination of trends, was up 13 per cent for the month. With preferred dividends showing only a negligible gain over last year, the increase in the balance for common stocks worked out at 15 per cent. On a per share basis, with allowance for new money stock sales during the year, the increase might be reduced to 12 or 13 per cent. For the calendar year 1948 results will of course not be so favorable, since first half earnings averaged lower than last year. But it now looks as though calendar year net will show a modest gain over last year—perhaps 2 or 3 per cent.

The chart on page 243 shows the trend of sales, earnings, and income of electric utilities since 1926, using the figures as reported by the Edison Electric Institute. Nineteen forty-eight results have been estimated by applying percentage changes for the first eleven months (as reported in the Federal Power Commission bulletins) to the 1947 EEI figures. This indirect method is necessary because the two sets of figures are compiled on a somewhat different basis. The chart was last published in the *FORTNIGHTLY* of September 9, 1948. The preliminary estimates for 1948 as shown in that chart proved fairly accurate for revenues, sales, and total expenses. However, the earlier estimate for taxes proved slightly too low, while projected figures for fuel, depreciation, and fixed charges were too high.

THE natural gas companies make an even better showing. Revenues in November were nearly 20 per cent over last year and net income gained nearly 30 per cent—despite a jump of almost 32 per cent in fixed charges. The number of customers in November increased only 5.5 per cent over last year, but sales gained 22.6 per cent, and revenues 19.7 per cent. Of course weather conditions may have had something to do with the

showing for the individual month. For the twelve months ended November, natural gas revenues gained 15.2 per cent and net income 7.6 per cent. The increase in number of customers was 5.5 per cent, the same as for the month of November. Book cost of gas plant as of November 30, 1948, was \$2,760,000,000, an increase of about 12 per cent over a year ago.

### *Electric Power and the National Economy*

MR. E. A. YATES, president of The Southern Company, has presented a statement on "Electric Power and the National Economy" to The Industrial College of the Armed Forces at Washington, D. C. The 36-page document contains many interesting maps, charts, and tables comparing the record of the electric light and power industry with the growth of national income, the trend of the Federal Reserve index of industrial production, the growth of life insurance sales, etc. The amount of energy generated for war purposes during the years 1939-46 is graphically shown.

One of the most interesting points made by Mr. Yates is a comparison in 1943 of the combined results for six integrated holding company systems with the averages for some ninety independently operated companies. The study indicated that:

(1) The reserves required by the integrated groups were less than the independent groups (8.37 per cent of capacity for the systems *versus* 10.73 per cent for the independent companies).

(2) The average annual load factor of the integrated holding company group was higher than that of the independent groups (69.7 per cent *versus* 61.2 per cent).

(3) The utilization of equipment (or work accomplished per unit of capacity) was 64.5 per cent for holding companies *versus* 52.2 per cent for the independents, a 24 per cent advantage for the integrated groups.

# PUBLIC UTILITIES FORTNIGHTLY

## RECENT FINANCIAL DATA ON GAS COMPANY STOCKS

	1/26/49 Price About	Indicated Dividend Rate	Approx. Yield	12 Mos. Ended	Share Earnings— Current Period	Previous Period	% In- crease	Price- Earnings Ratio
<b>Natural Gas—Retail</b>								
C Arkansas Natural Gas ....	7	\$ .20	2.9%	Dec.'47	\$ .80	\$ .39	107	8.8
O Atlanta Gas Light .....	18	1.20	6.7	June	1.78	2.52	D29	10.1
S Columbia Gas System .....	11	.75	6.8	Sept.	1.09	1.36	D20	10.1
C Consol. Gas Util. ....	11	.60	5.5	July	1.55	1.16	34	7.1
S Consol. Natural Gas .....	43	2.00	4.7	Sept.	3.75	4.49	D16	11.5
O Houston Natural Gas .....	17	.80	4.7	July	1.42	1.29	10	12.0
O Indiana Gas & Water .....	15	1.20	8.0	Nov.	1.38	1.46	D 5	10.9
O Kansas-Neb. Nat. Gas .....	15	1.00	6.7	Aug.	1.74	—	—	8.6
C Lone Star Gas .....	24	1.00	4.2	Sept.	2.23	1.72	30	10.8
O Mission Oil .....	40	2.20	5.5	Dec.'47	2.04	2.92	D30	19.6
O Mobile Gas Service .....	24	1.50	6.3	Sept.	2.77	2.54	9	8.7
S Montana-Dakota Util. ....	11	.80	7.3	June	1.41	1.51	D 7	7.8
C National Fuel Gas .....	9	.60	6.7	June	.74	.98	D24	12.2
C Okla. Natural Gas .....	40	2.00	5.0	Nov.	4.61	3.50	32	8.7
S Pacific Lighting .....	53	3.00	5.7	Sept.	4.45	4.39	1	11.9
C Pacific Pub. Serv. ....	16	1.00	6.3	Dec.'47	2.43	1.91	28	6.6
C Rio Grande Valley .....	2	.12	6.0	Dec.'47	.21	.15	40	9.5
O Rockland Gas .....	24	1.70	7.1	Dec.'47	3.36	3.30	2	7.1
O Southern Union Gas .....	18	.70	3.9	Dec.'47	1.20	.90	33	15.0
O Southwest Nat. Gas .....	3	.20	6.7	June	.26	.27	D 4	11.5
O Texas Pub. Serv. ....	24	1.20 & Stock	5.0	Nov.	2.92	2.24	30	8.2
C United Gas .....	20	1.00	5.0	Sept.	1.78	1.41	26	11.2
S Washington Gas Light ....	25	1.50	6.0	Nov.	1.89	1.00	89	13.2
Averages .....			5.8%					10.5
<b>Mixed Gas—Retail</b>								
S Laclede Gas Light .....	5	\$ .20	4.0%	Sept.	\$ .92	\$ .73	26	5.4
O Minneapolis Gas .....	13	.80	6.2	Sept.	.95	1.12	D15	13.7
O National Gas & Elec. ....	7	.60	8.6	Dec.'47	1.64	1.24	32	4.3
S Peoples Gas L. & C. ....	98	6.00	6.1	Aug.	9.41	—	—	10.4
Averages .....			6.2%					8.5
<b>Natural Gas—Wholesale and Pipe Line</b>								
S El Paso Nat. Gas .....	75	\$2.40	3.2%	Nov.	\$7.08	\$4.98	42	10.6
O Interstate Nat. Gas .....	22	2.00	9.1	Dec.'47	1.71	1.70	—	12.9
O Missouri-Kansas P. L. ....	25	1.00	4.0	Dec.'47	1.27	1.03	24	19.7
S Northern Nat. Gas .....	32	1.95	6.1	Sept.	2.90	3.43	D15	11.0
S Panhandle East. P. L. ....	55	3.00	5.5	Sept.	4.82	4.35	11	11.4
S Southern Nat. Gas .....	30	2.00	6.7	Sept.	3.05	2.52	21	9.8
O Southern Production .....	9	—	—	June	.29	.35	D17	—
O Southwest Gas Producing .	9	—	—	Dec.'47	.14	—	—	—
O Tenn. Gas Trans. ....	24	1.40 & Stock	5.8	Sept.	1.77	1.70	4	13.6
O Texas Gas Transmission ..	11	—	—	April	1.02	—	—	10.8
O Texas East. Trans. ....	13	—	—	Sept.	.80*	—	—	—
Averages .....			5.8%					12.5
<b>Manufactured Gas—Retail</b>								
O Birmingham Gas .....	14	\$ .60	4.3%	Sept.	\$1.43	\$ .83	72	9.8
C Bridgeport Gas .....	23	1.40	6.1	Dec.'47	1.69	1.72	D 2	13.6
O Brockton Gas Lt. ....	11	1.00	9.0	Dec.'47	1.00	1.12	D11	11.0
S Brooklyn Union Gas .....	23	—	—	Sept.	.88	D.22	—	—
O Hartford Gas .....	33	2.00	6.1	Dec.'47	2.10	2.38	D12	15.7
O Haverhill Gas Lt. ....	16	1.60	10.0	Nov.	1.43	1.50	D 5	11.2
O Jacksonville Gas .....	29	1.40	4.8	Dec.'47	5.64	5.47	5	5.1
C Kings County Lighting ...	4	—	—	Dec.'48	.38	.15	—	10.5
Averages .....			6.7%					11.0

D—Decrease or deficit. C—Curb Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. \*—Nine months to September 30th.

FEB. 17, 1949

# FINANCIAL NEWS AND COMMENT

## PRINCIPAL PUBLIC OFFERINGS OF UTILITY SECURITIES

October 5, 1948, to January 31, 1949

Date	Moody Rating	Amount Mill.	Description	Price to Company	Price to Public	Gross Spread	Syndicate Manager
<i>Mortgage Bonds</i>							
10/15	Baa	\$ 5	Interstate Pr. 1st 4½s 1978 .....	100.00	103.00	3.00	Halsey, Stuart
10/20	A	10	Pub. Serv. of Colo. 1st 3½s 1978...	101.54	102.06	.52	Harris, Hall
10/20	A	7	Pub. Serv. of N.H. 1st 3½s 1978...	101.84	102.38	.54	Halsey, Stuart
10/27	A	10	New Orleans P. S. 1st 3½s 1978...	101.57	102.13	.56	Lehman Bros.
11/10	A	6	Assoc. Tel. Co. Ltd. 1st 3½s 1978..	101.68	102.38	.70	White, Weld
11/12	Aa	4	Brooklyn Edison 1st 3s 1978.....	100.15	100.50	.35	Kidder, Peabody
11/17	A	3	Iowa Pub. Serv. 1st 3½s 1978.....	101.00	101.93	.93	Halsey, Stuart
11/18	A	2	Calif. Water Ser. 1st 3½s 1975....	97.51	98.50	.99	Dean Witter
11/18	A	11	No. Indiana P. S. 1st 3½s 1978.....	100.32	100.95	.63	Union Securities
12/1	A	9	Florida Pr. Corp. 1st 3½s 1978....	100.56	100.96	.40	Kidder, Peabody
12/1	Aa	15	Dayton P. & L. 1st 3s 1978.....	100.50	100.99	.49	Lehman Bros.
12/2	Baa	12	Georgia Pr. Co. 1st 3½s 1978.....	101.45	102.38	.93	First Boston
12/8	A	8	Okla. G. & E. 1st 3½s 1978 .....	101.85	102.52	.67	Halsey, Stuart
12/8	A	6	Potomac Ed. 1st 3½s 1977.....	101.87	102.46	.59	Halsey, Stuart
12/9	Baa	12	Alabama Pr. 1st 3½s 1978.....	102.11	102.75	.64	Halsey, Stuart
1/20	A	10	Central Ill. P. S. 1st 3½s 1979.....	100.78	102.38	1.60	Halsey, Stuart
1/20	A	8	Mississippi P. & L. 1st 3½s 1979...	101.58	102.06	.48	Halsey, Stuart
1/26	A	4	Jersey Cent. P. & L. 1st 3½s 1978...	101.99	102.45	.46	White, Weld
1/26	A	12	Pub. Ser. of Ind. 1st 3s 1979.....	100.40	100.99	.59	Harriman, Ripley
1/26	Aa	50	Cons. Edison 1st & Ref. 3s 1979...	101.69	102.40	.71	First Boston
<i>Debentures</i>							
10/20	Aaa	75	Mich. Bell Tel. Deb. 3½s 1988.....	101.76	102.25	.49	Morgan, Stanley
11/17	Aa	60	No. West. Bell Tel. Deb. 3½s 1979..	100.69	101.38	.69	Halsey, Stuart
12/1	A	6	No. Nat. Gas Deb. 3½s 1966-9.....	100.42	**	—	First Boston
12/2	—	27	Transcontinental Gas P. L. 6% Notes 1951† .....	49.50	52.50	3.00	White, Weld
12/2	A	30	Panhan. E.P.L.S.F. Deb. 3½s 1973	100.06	100.85	.79	Kidder, Peabody
12/8	Aa	150	Amer. T. & T. Deb. 3½s 1973.....	100.71	101.61	.90	First Boston
12/8	Baa	9	Rochester Tel. Deb. 4s 1963.....	100.59	102.00	1.41	First Boston
12/15	Aa	5	New Bedford G. & E. L. 3% Notes 1973 .....	100.10	100.50	.40	Halsey, Stuart
1/12	A	15	Gulf States Util. Deb. 3s 1969.....	100.40	100.75	.35	Salomon Bros.
1/23	A	50	Pub. Ser. E. & G. Deb. 3s 1963....	100.68	101.21	.53	Halsey, Stuart
<i>Preferred Stocks</i>							
10/15	—	2	Central E. & G. \$2.50 Conv. Pfd....	—	48.00	—	Paine, Webber
10/20	—	7	P. S. of Colo. \$4.40 Pfd.....	100.07	102.25	2.18	Blyth & Co.
10/21	—	6	Penn. P. & Lt. \$4.60 Pfd.....	—	100.00	—	Drexel & Co.
10/25	—	1	Calif. Water & Tel. \$1.40 Conv. Pfd.	—	28.00	—	Blyth & Co.
10/27	—	1	Black Hills P. & L. \$5.40 Pfd....	96.50	100.00	3.50	Dillon, Read
11/12	—	3	Peninsular Tel. \$1.32 Pfd.....	25.10	26.40	1.30	Morgan, Stanley
11/17	—	2	Calif. Water Ser. \$1.325 Conv. Pfd.	—	26.50	—	Dean Witter
11/17	—	1	So. Calif. Water \$1.375 Conv. Pfd.	—	26.50	—	Harris, Hall
12/8	—	3	Potomac Edison \$4.70 Pfd.....	96.80	100.00	3.20	W. C. Langley
<i>Common Stocks</i>							
10/14	—	2*	Pacific G. & E.....	32.67	33.25	.58	Lehman Bros.
10/20	—	3	Cent. Arizona L. & P.....	10.25	11.00	.75	First Boston
10/20	—	3	Otter Tail Power .....	17.27	18.75	1.48	Glore, Forgan
10/21	—	9*	Oklahoma G. & E.....	32.63	34.25	1.62	First Boston
10/27	—	5	San Diego G. & E.....	12.60	13.50	.90	Blyth & Co.
11/9	—	1	Tide Water Power .....	6.38	7.25	.87	Union Securities
11/17	—	4*	Detroit Edison.....	19.55	20.13	.58	Blyth & Co.
12/16	—	2*	Detroit Edison.....	19.85	20.30	.45	Blyth & Co.
1/11	—	4*	Mississippi River Fuel Corp.....	—	30.00	—	Union Securities
1/12	—	5	Gulf States Utilities.....	16.16	16.80	.64	Stone & Webster
1/17	—	13††	Southern Indiana G. & E.....	18.00	19.50	1.50	Smith, Barney

\*Does not represent company financing. \*\*Priced to yield 3 per cent to 3.10 per cent. †Offered in units consisting of one \$50 note and one share common stock. ††600,000 shares liquidated by Commonwealth & Southern, remaining 85,000 sold for construction funds.



# What Others Think



## Aluminum for REA

**T**HE Rural Electrification Administration coöperatives assert that the co-ops need large quantities of aluminum for cable to expand their operations. They plan to obtain the necessary metal. The Reynolds Metals Company has agreed to supply the aluminum. Since most of the primary ore, bauxite, is located in Arkansas, present plans indicate that the processing operation will concentrate in or near that state. At present one firm, Aluminum Extrusion, Inc., is moving its plant from Charlotte, Michigan, to Magnolia, Arkansas. It will process aluminum ingots into finished products.

Much electric power and some new money will be needed. The Reynolds Metals Company has entered into a tentative agreement with the Arkansas Power & Light Company for power, which it is said will permit a 50 per cent increase in aluminum production at the Jones Mill, Arkansas, plant. Additional power has been promised by the Grand River Dam Authority, but that power will not be available until Arkansas Power & Light Company makes a firm contract to transmit the electricity over its lines. At the moment, no such contract has been signed. Hence, the so-called "Operation Aluminum" is not a certainty.

With respect to the details of marketing and distributing the finished products to coöperatives throughout the nation, a contract has been signed by Reynolds Metals Company and the Wisconsin Electric Coöperative. The coöperative has agreed to advance \$6,000,000 to Reynolds to aid in initiating "Operation Aluminum." WEC is to be responsible for distributing aluminum conductor to rural electric systems and to public agencies and to contractors who aid in

building the rural electrification program.

**T**HAT the Rural Electrification Administration is serious about expanding its activities is clearly indicated in a speech of Claude R. Wickard, REA Administrator, before a meeting of the Tennessee Rural Electric Coöperative Association at Nashville, Tennessee, January 11, 1949.

Speaking specifically of aluminum, Mr. Wickard asserted that the construction of REA lines is being severely hampered by the failure of coöperatives to get sufficient aluminum conductor. Quoting Wickard directly:

... Aluminum conductor production is being restricted because there is not enough electric power to produce the desired amount of aluminum. Every time we start on the trail of finding more aluminum we come right up against this shortage of power.

There are people who would like to start new aluminum plants and even use some of the war plants to increase aluminum production, but they can find no satisfactory source of power; therefore, the shortage of electric power today is keeping rural people from getting the benefits of electricity as fast as they want and need these benefits. It is slowing down our great REA program which means so much to the health and happiness, efficiency, and prosperity of rural people.

Let me remind you that the effects of the curtailment spread far beyond depriving the rural homes and farms of electric service. It is felt in the industries and in the commercial centers which produce and sell all the things that rural people need and buy when they are on electric lines. Furthermore, the producing capacity and the efficiency of farmers is restricted. So is their ability to buy non-electrical items which their greater production and prosperity would enable them to buy. Consequently, every segment of our economy is adversely affected by the shortage of aluminum.

**O**THER parts of Wickard's speech are interesting here only in so far as

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they reflect attitudes and a determined purpose. A few of his remarks on the subject of "Electric Power for Growing America" follow in abridged form:

The TVA idea is great. So was F. D. Roosevelt, George Norris, and other great men. Hydroelectric projects should have been developed long ago with the sponsorship of the government. They conserve our great natural resources; reduce erosion of the soil; reduce the hazards of floods; reduce the wasting water power; prevent the waste of time and energy of human beings; provide the means for making people healthier and happier. They enable people to produce more for each hour of work.

One of the most positive ways of insuring that we will continue to progress is to take comprehensive steps to see that the supply of low-cost electric power is always well ahead of the demand for such power.

At this point in Mr. Wickard's speech the thoughts and expression become sufficiently caustic that in fairness to our readers and to the government it is best to quote:

We are all glad to know that the commercial power companies are expanding their facilities. We wish they would give more thought, energy, and money to this phase of their activities and less to high-priced lobbyists, retainer fees, and radio and newspaper propaganda. Of course, the cost of all these items comes out of their customers' pockets. Also, we wish that they would do less looking back over their shoulders to see if another depression is not about to overtake them. Fundamentally, of course, the best way of preventing another depression is for the entire nation to expand its economy through increased production and consumption. Then, a depression like that of the early Thirties would never overtake us again.

In this power field we need the Federal government to do things that cannot be done by the commercial power companies. I refer to the progress that you have seen here in

the Tennessee valley—and projects that have brought about the transformation in the Pacific Northwest. We should start at once the development of the St. Lawrence seaway and power project on a broad scale with the assurance that the benefits are made available to the people rather than the privileged few.

There are additional hydro sites in the Southeast, the Southwest, in the Northwest, and along the Missouri which need to be planned and developed on a comprehensive scale for the benefit of the people. These sites are capable potentially of more than doubling our national generating capacity.

After those definite statements, Wickard tops the subject off by adding that in order to do this job, it will be necessary for government agencies to build and to operate the transmission systems needed to deliver the power.

**H**OWEVER, Wickard doesn't even stop there. The remaining ideas presented by him will be compressed below:

U. S. supplementary fuel plants for power production are necessary. TVA's proposed New Johnsonville steam plant must be constructed promptly. "Are we going to follow the plan indicated by the President in his recent state of the Union message? Or are we going to listen to and follow the advice of those whose counsel has been so misleading in the past—of those who prattle about their own brand of private enterprise, who cry Socialism, and who use other fallacious arguments in their efforts to keep the country from getting the abundant, low-cost electric power which is essential?"

Expanding our economy in order to avoid economic troubles is the closing plea which Mr. Wickard makes for retention of "our free enterprise system," our democratic institutions, and "opportunity and freedom for all the people."

In this way, we avoid economic, social, and political evils, he contends.

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## Transit Progress 1948

**W**ITH a week-day average of about 65,000,000 riders — equal to the combined populations of Great Britain

and Canada—the transit industry in the U. S. carried the tremendous load of 21.4 billion people during 1948.

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According to figures released last month by the American Transit Association, 1948 saw a decline of more than 5 per cent in total national riding from 1947 levels, when 22,540,000,000 passengers were transported on local busses, streetcars, trolley coaches, subways, and elevated systems. However, the '48 load is nearly 9 billion riders above the last prewar year of 1940.

In an analysis of the industry's financial picture, Guy C. Hecker, executive manager of ATA, pointed out that while 1948 operating revenue was \$1,480,000,000—a 6.41 per cent increase over the \$1,390,800,000 for the previous year—operating expenses rose 7.29 per cent. These expenses, including depreciation but not taxes, totaled \$1,329,000,000, while in 1947 they were \$1,238,740,000.

Net revenue for the entire transit industry showed a \$1,060,000 decrease from the postwar low level reached in 1947, he stated. The 1948 total of \$151,000,000 before taxes is lower than the \$152,060,000 for the previous twelve months, he added, despite the upward trend in transit fares in most cities. Hecker continued:

Declining net revenues are due to increasing costs of labor, materials, and supplies. These are rising faster than revenues, too frequently because of delayed fare increases. Unlike wages, fares cannot be collected on a retroactive basis.

One of the oddities of the transit business is the extremely high percentage of income paid out in the form of wages. Our figures show this to be 56 per cent, as compared,

for instance, to 22 per cent for the power and light industry.

With wages taking such a high per cent of the transit dollar, each round of wage increases must necessarily be passed on to the riders by further fare increases if the operating companies are to continue to furnish satisfactory service.

**A**LTHOUGH transit's payroll rose to \$825,000,000 in '48, a 4.43 per cent increase over 1947, the number of employees declined from 266,000 in 1947 to 261,000 at the present time.

ATA also revealed that transit fares, on the upswing over most of the country, reached a 10-cent or higher cash fare in 1948 in 71 per cent of cities with over 25,000 population. This population group, numbering 412 communities, had only 43.8 per cent with a 10-cent cash fare in 1945. During 1948, adult fares were raised in 205 cities of over 25,000 residents, and in many of those communities the latest increase was the third or fourth since VJ-Day, when the upward trend began. At the present time, 22 have local transit fares in excess of 10 cents, some as high as 15 cents.

In 1945, one-third of the 412 cities with populations of 25,000 and over had a nickel fare, while this year will find less than one in ten still offering service for that price.

Outstanding among 1948 fare increases was the 100 per cent jump in

### RESULTS OF OPERATION

	1948 (Preliminary)	1947 (Final)	Per Cent Change
Operating Revenue .....	\$1,480,000,000	\$1,390,800,000	+6.41
Operating Expense .....	1,329,000,000	1,238,740,000	+7.29
(Incl. Depreciation Excl. Taxes)			
Net Revenue .....	151,000,000	152,060,000	-0.70

### OPERATING STATISTICS

Number of Passengers Carried .....	21,400,000,000	22,540,000,000	-5.06
Vehicle Miles Operated .....	3,287,000,000	3,342,400,000	-1.66
Miles of Line Operated (Dec. 31) .....	51,000	50,778	+0.44
Passenger Vehicles Owned (Dec. 31) ....	91,700	92,407	-0.77
Number of Employees .....	261,000	266,000	-1.88
Payroll .....	\$825,000,000	\$790,000,000	+4.43

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New York city, where the 5-cent fare on city-owned subway lines became 10 cents. With the end of the nickel fare in New York and shortly in Dayton, Ohio, there is only a small group of cities in the U.S. offering service at 5 cents per ride, and these all have a population of less than 85,000.

In line with the decrease in passengers carried during the past twelve months, a slight falling off in miles operated by the country's transit vehicles took place in the same period, when the total dropped to 3,287,000,000 miles. This compares with 3,342,000,000 covered in 1947. However, miles of line operated rose to an esti-

mated 51,000 last year from 50,778 in 1947.

Passenger vehicles owned by the industry are estimated at the year's end to be 91,700—a small drop from the 92,407 in 1947. Replacement of less serviceable equipment with newer, more efficient, and generally larger vehicles accounts for this decrease, it was stated. New busses put in service in 1948 number 7,000, while 500 streetcars and 1,350 trolley coaches were added to the nation's transit fleet during the same period. Two hundred and thirty rapid transit cars were delivered to the New York transit system during 1948.

## Advertising the American System

THE best minds of the American Association of Advertising Agencies and the Association of National Advertisers have pooled their efforts to develop a remarkable and well-thought-out plan to give the American people a better understanding of our economic system. The uniqueness of the plan lies in the fact that it recognizes the shortcomings of our system and takes them into consideration in formulating a program.

As the basic foundation for a program it was agreed that in the years between the passage of the Sherman Antitrust Act and 1929 the American system was based on five fundamental principles: (1) private property, (2) a free market, (3) profit and wage incentives, (4) competition, and (5) government regulation—but not government control.

It was also agreed that the American people generally believed in the above basic principles, but that they had inadequate understanding of how they functioned. The belief in the principles was established by public opinion polls. The lack of understanding was demonstrated by the fact that the people voted so often since the depression against the very principles in which they believe.

The joint committee attributes this lack of understanding to five factors: (1) confusion and frustration created by the

depression; (2) psychological effect of an industrial society on people—loss of feeling of importance; (3) specialization has taken many people out of contact with the workings of our system; (4) no organized effort to present the positive side; and (5) subversive propaganda.

It was decided that this situation presented a definite danger to the American people in that they would unwittingly modify their economic system bit by bit until it is no longer the social contact they thought they had. Regarding this danger the joint committee says:

Since America is the world's last great stronghold of free economy and freemen, the final issue of this world-wide struggle will probably be settled here. In our opinion the final outcome of this struggle may depend as much on economic events as on political ones. In fact, it may depend primarily on whether or not the American people are able to solve the problem of the business cycle and still retain a free economy. We say this because anyone who analyzes the situation carefully comes face to face with this inescapable logic:

In order to preserve a reasonably free economy in our highly industrialized society, we have to work out some method of cushioning the effects of the business cycle.

If the American people can't work out some method of cushioning the effects of the business cycle under a free economy, they

## PUBLIC UTILITIES FORTNIGHTLY

may be strongly impelled to adopt a controlled economy.

If this is true, we are in an extremely serious position.

For what chance does this country stand of solving the business cycle—and preserving our freedom—when the American people are as ill-informed on economics as they are today?

Unless the American people can be prepared for the problems that lie ahead—unless they can be given adequate information, and understanding, and knowledge, on which to base their economic decisions—the future for our free economy—and our freedom—looks very grim indeed.

**F**ROM the above reasoning, the committee formulated a 3-point plan. First, the establishment of a permanent program in each plant and plant city designed to present sound economic information and to restore the worker's pride in his job, his feeling of importance or economic significance, and his sense of belonging to the group.

Second, the development of a broad, general, product-type advertising campaign on what the American economic system has done for us and what it can do—if we keep it.

Third, a recommendation for the future, as follows:

Our third recommendation expressed the joint committee's belief that sooner or later someone is going to have to tackle the problem of educating the American people on the basic principles of our whole economic system—why and how it is able to provide what it does. Programs No. 1 and 2 would help meet the vital needs of the immediate future. But in the public debates that lie ahead—how to achieve a degree of security without loss of too much liberty; how to cushion the business cycle without restricting our free market; how to raise the world's standard of living without ruining certain home industries, etc.—people will have to have information on which to base their decisions.

Therefore our committee recommended that we develop a project that is admittedly one of the most difficult ever attempted:

That we build a nation-wide educational campaign on how and why the American economic system is able to do what it does—using advertisements, booklets, motion pictures, radio, and any other media of communication that fit our purpose.

And that such a program be limited only to the amount of time it takes to reeducate this generation of the American people.

Finally, we made this last recommendation: That some means be found to make all three programs absolutely fair and unbiased—programs that could be supported by labor unions as well as by business, or by any other groups in the country who could be interested.

We put particular emphasis on this final recommendation because we believe very strongly that the success of the entire venture would depend as much on the manner in which the discussion was placed before the American people as on the material which was presented.

**T**HE above material was condensed from a 31-page booklet prepared by a joint ANA-AAAA committee on economic education. Inquiries concerning any of its contents should be addressed to the joint committee, 420 Lexington Avenue, New York 16, New York. It has been printed and distributed as a public service by *Time*, the weekly news magazine, 9 Rockefeller Plaza, New York 20, New York.

That takes care of the original plans and recommendations.

At this point the organization and execution of the plan were taken over by the Advertising Council, Inc., with offices in New York, Washington, Chicago, and Hollywood. This group represents not only the advertising companies and the advertising agencies but also the advertising media, including radio, newspapers, outdoor and transportation advertising, magazines, and Sunday features. It considers itself a public service group; is supported financially by business. The counsel was organized at the beginning of the last war and was engaged in planning and sometimes executing many of the war campaigns, including bonds and scrap salvage.

The Advertising Council has been engaged in appealing for support from business for the continuation of its basic magazine campaign beyond the month of November. General Electric and General Foods have each agreed to put \$100,000 worth of advertising space behind the campaign. Other groups, including advertising agencies themselves, have stated that they will purchase space to run the prepared ads over their own names.

# The March of Events



## In General

### Power Deal OK'd

**A** PROPOSAL that the Bonneville Power Administration make a deal with British Columbia to obtain storage water for power generation at Grand Coulee dam in the winter met with quick approval in Washington, D. C., last month.

Senator Warren G. Magnuson, Democrat, Washington, and ex-Senator Clarence C. Dill presented to President Truman a plan for the BPA to purchase 5,000,000 to 6,000,000 acre-feet of water from British Columbia and pay for it out of revenues from the additional power produced.

The plan includes construction of a stone and earth dam below the Arrow lakes on the Columbia river in British Columbia by the Province. BPA would pay for the water obtained during winter months when the Columbia flow is not sufficient to operate all of the Grand Coulee generators.

The International Joint Commission, which has jurisdiction over such United States-Canadian proposals, will make a survey of the proposed dam. The commission expressed hope the report will be ready at its next meeting in April.

Under the proposal the additional water would be used to generate an additional 500,000 to 700,000 kilowatts of power annually at Grand Coulee. The

water to be purchased from British Columbia would cost about half the power revenues it would produce, it was said.

### FPC Puts Off Hearing

**T**HE Federal Power Commission has postponed indefinitely a hearing scheduled for February 7th in its investigation of the Panhandle Eastern Pipe Line Company's transfer of natural gas reserves to the Hugoton Production Company. The commission said it plans to await final disposition of a companion case by the United States Supreme Court.

The commission ordered the investigation last October after Panhandle organized the Hugoton Company and transferred gas reserves in Kansas to Hugoton in exchange for that company's stock. Panhandle planned to distribute the stock to its own stockholders.

In mid-November, the commission started the companion court case in the Federal District Court for the District of Delaware. It asked an injunction to restrain Panhandle from the proposed stock distribution pending the commission's ruling. The district court denied the motion and the commission appealed to the United States Third Circuit Court of Appeals. That court entered a stay order restraining Panhandle from distributing the stock pending the appeal.

## Connecticut

### Rate Increases Authorized

**C**USTOMERS of the Connecticut Light & Power Company will pay higher

rates for their gas and electricity, it was decided recently by the state public utilities commission. At the time of the an-

## PUBLIC UTILITIES FORTNIGHTLY

nouncement, however, the amount of the rate increases was still unsettled. The commission's decision authorized the company to work out new rates that will add \$2,102,000 a year to its revenues.

The commission said \$1,093,000 in increased electric rates would be allowed,

\$511,000 in increased gas rates, and \$498,000 in the extension of a fuel adjustment charge to residential users of electricity. The company had asked for increases aggregating \$3,610,000, but the commission trimmed the request by \$1,498,000.

### Florida

#### Seek Statewide Utility Statute

**T**HE board of directors of the Florida Power Corporation last month asked the Pinellas legislative delegation to support a statewide utility regulatory law. The directors also were reported to have renewed attacks on the Pinellas County Utility Board.

Constitutionality of the county utility board has been challenged in the courts by Florida Power, and the case is now before the state supreme court. The local commission was provided for in a bill introduced by Senator Henry S. Baynard. Reasons for favoring a state regulatory commission were given in the resolution adopted by the FPC directors as follows: (1) Personnel for such a group would be "presumably" selected on a basis of technical qualifications for dealing with utility regulation; (2) "by devoting full time to the duties of their office, it is expected that such commissioners would develop exceptional skills through experience and a broad understanding of the many problems under their control"; (3) in addition to special qualifications for the commissioners, the

technical staff of the commission "presumably" would be composed of experts trained in engineering, accounting, and law; (4) the state group would exercise continuous supervision of all electric companies and therefore would be in a better position to make decisions "with promptness and fairness."

The directors called it a "basic theory" that members of the state group would be "nonpolitical and would be qualified for the position by their knowledge and training rather than because of some political connections."

It was admitted that such a group "would insure considerable savings to the taxpayers."

The commission also "would be responsible primarily for the establishment of standards, rules, schedules of charges, and other matters affecting the operations of the electric companies in Florida."

A bill calling for such a statewide regulatory group was introduced during the 1947 session of the legislature, but was killed in committee. Baynard then introduced the bill setting up the Pinellas Utility Board.

### Georgia

#### Bill Defines "Confiscation"

**G**EOORGIA's legislature received a bill attempting to define "confiscation of property" in the regulation of public utility rates.

Introduced last month by Representative Vaughn Terrell of Floyd, the pro-

posed legislation would provide that unless a utility is earning less than 4 per cent on its investment, its rates cannot be considered so low as to represent confiscation.

Representative Terrell said his proposal was intended to prevent "rate squabbles."

## THE MARCH OF EVENTS

### Indiana

#### Houses Passes Bill Repealing Utilities Arbitration Act

**T**HE Democratic administration bill repealing the 1947 compulsory utilities arbitration act was passed by a vote of 76 to 22 in the state house of repre-

sentatives and sent to the senate late last month.

Voting on the bill for the most part followed party lines, it was reported, with 57 out of the 60 Democrats in favor of the repealer and 21 of the 40 Republicans against it.

### Michigan

#### Six Per Cent Return Hit

**C**ONTENTION between Governor Williams and the state public service commission over recent utility rate increases apparently had boiled down last month to a question of whether public utilities really are entitled to a 6 per cent return on their investment as the commission contends.

At a 2-hour conference with the three commissioners — all Republicans — the Democratic governor raised the question of why returns of utilities had not dropped in recent years, as have earnings of banks and other business institutions.

"I have no definite opinion as to what the rate of return should be, but it is a question I expect to pursue," Williams said, announcing his intention to confer with utility officials and their patrons.

The state legislature also may take up the matter of utility returns. Representative William S. Broomfield, Republican of Royal Oak, introduced a resolution to create a house committee of three to investigate them.

"Private investors have been unable

for some years to obtain returns of more than 2 to 4 per cent on safe investments comparable to public utilities, and the return on government bonds averages only 2½ per cent," Broomfield said. "The difference seems to be unjustified, and should be investigated with a view to adjustment for the benefit of the consumer."

Commission members insisted a 6 per cent return was fair, although earnings necessarily vary somewhat according to circumstances. They defended recent rate increases on the grounds that inflation, with its soaring costs, finally had caught up with the utilities, and that they had to be kept "robust," in order to get capital to provide the service the public demands. Some of the rate schedules approved produce earnings of only 5.25 per cent, they said.

"I believe the commissioners are doing what they think is right, but I don't know whether I agree with their philosophy," Williams commented afterward, disclaiming any intention of asking for any resignations.

### Minnesota

#### Utility Tax Proposed

**A**SPECIAL tax on production of electricity by private electric power companies and an increased tax on gross earnings of telephone companies were among the possible means of raising revenue for a soldiers' bonus program sug-

gested to the state legislature by Governor Luther Youngdahl in his budget message last month.

He also suggested a tax on certain "luxury" items, an increase in the occupational tax on iron mining, and the tax on royalties, and submission of a consti-

## PUBLIC UTILITIES FORTNIGHTLY

tutional amendment authorizing an increase in the gross earnings tax on railroads to be earmarked with other revenue to help pay the cost of the bonus.

"You may determine upon additional

sources of revenue," Governor Youngdahl said in discussing the bonus issue, "but I sincerely hope that you will adopt items that spread the cost widely and that you will avoid a general sales tax."

### Missouri

#### Vote to Oppose Bar on Strikes

**R**EPPEAL of the King-Thompson and Madison state labor regulatory acts, which were enacted by the 1947 Republican-controlled legislature, was demanded under a 6-point legislative program adopted at a conference of Missouri labor leaders at Jefferson City recently.

The labor program also calls for enactment of a law restricting the rights of

courts to issue injunctions in labor disputes, passage of a state minimum wage law, and liberalization of workmen's compensation benefits and of the administration of unemployment compensation.

The backing of virtually every segment of Missouri organized labor was pledged to the program by 55 representatives of the AFL, CIO, the Railroad brotherhoods, and the Independent Communications Workers of America, representing telephone employees.

### New Hampshire

#### Bill Limiting Return Filed

**L**EGISLATION designed to limit New Hampshire's utilities to a 4½ per cent return on their investment was filed in the state senate recently by Senator Eugene S. Daniell, Jr., of Franklin.

The bill, sent to the judiciary committee, presumes that returns of more than

4½ per cent on utility investments are unreasonable and would place the burden of proof upon the utility to show that such returns were not unreasonable.

Senator Daniell said he had "faith in the state public service commission" but that it has been "misled by utility lawyers."

### New York

#### Gets Gas Rate Increase

**T**HE state public service commission last month authorized a rate increase of \$1,025,000 a year for the Brooklyn Union Gas Company. The new rates, effective January 29th, will affect 820,000 customers of the utility, which serves large sections of Brooklyn and Queens.

This was the fourth increase granted to the company since July, 1947, and brings the total rate rise to \$8,825,000. In its latest application, filed November 1st, the utility asked for an increase of \$2,200,000 a year to offset higher labor and material costs.

#### Rehearing Asked

**T**HE Consolidated Edison Company on January 28th was served with a copy of a petition by the city of New York to the state public service commission asking for a rehearing on the recent increase in the company's gas rates.

This petition was based upon technical questions relating to the commission's basis for its order.

Ralph H. Tapscott, company president, said if a rehearing is had, the company expects to show that even the interim rates in question are grossly inadequate.

## THE MARCH OF EVENTS

### Pennsylvania

#### Power Cost Boosted

**E**LECTRICITY costs will go up April 1st for 16,500 commercial and industrial users in the Pittsburgh district. Residential users will not be affected.

The increase was announced last month

by Duquesne Light Company. It must be approved by the state public utility commission before it becomes effective.

The boost will average about \$3.50 a month for such customers, the company said. The firm blamed the increase on rising coal costs.

### Vermont

#### Energy Tax Increase Recommended

**A**N increase in Vermont's electric energy tax from one-half mill per kilowatt hour to one mill for electricity generated in the state was recommended by Governor Gibson in his budget message last month to the state legislature.

Governor Gibson's recommendations

also included a proposal for a one per cent increase for each step in the graduated state income tax law.

These and other suggestions for raising a total of \$4,000,000 in new revenue were made by the governor in submitting a record budget of \$41,701,361 for the next biennium, an increase of about \$10,000,000 over the total 1947 budget figure.

### Washington

#### Must Share Power

**S**EATTLE CITY LIGHT must continue to share its power with other Pacific Northwest utility systems even if it means local curtailment of electrical use, the city council agreed recently.

Lighting Superintendent E. R. Hoffman was authorized to cut down as much as 15 per cent in sales of electrical energy to conserve power.

"The public has been responding very well to our requests for voluntary cooperation in saving power," Hoffman said.

### Wisconsin

#### Five-member Commission Proposed

**T**wo Democratic assemblymen introduced a bill on January 26th to set up a 5-member state public service commission in place of the present 3-man body.

The bill, brought in by Assemblyman Casimir Kendziorski (Democrat, Milwaukee) and George Molinaro (Democrat, Kenosha), would require that one commissioner represent "the public," two would speak for the farmer and

small business, and two for labor and industry.

Terms would be six years, at present, with the public representative getting a term ending in March, 1955. The first commissioners representing the farmer and small business would serve until the spring of 1953, and the representatives of labor and industry until 1951.

The bill provides that when it becomes law and the new appointments are made, the terms of present commissioners will expire.



# Progress of Regulation

## Transfer of Natural Gas Leases Not Subject to Control of Power Commission

THE United States Court of Appeals for the Third Circuit upheld the action of a district court in denying the Federal Power Commission a preliminary injunction to restrain the completion of a transaction involving a transfer of natural gas leases. The underlying question was whether such a transaction was subject to commission jurisdiction in spite of the provision in the Natural Gas Act that regulation should not extend to facilities used for local distribution or to production or gathering of natural gas.

Panhandle Eastern Pipe Line Company, an interstate company subject to regulation by the Federal Power Commission, has gas properties under lease which it has transferred to Hugoton Production Company, organized as a subsidiary to hold gas leases and to sell gas produced.

A contention by the commission that an administrative body is, in the first instance, its own judge of the scope of its jurisdiction was answered by the court with the statement that in this case no court was stepping between the commission and the performance of its job. The commission was, on the other hand, seeking court help, which it admitted was discretionary, in a situation where its investigatory powers had been unopposed.

The court said that when a party seeks court help it must show that it is entitled to such help. The court could not escape the responsibility of deciding whether

the commission had been given the rights or powers for which court sanction was being sought.

The commission's argument for jurisdiction made three points. It said that Panhandle, in a previous matter, had represented most of the leases included in the transaction to be used and useful in the operation of its existing pipe-line facilities.

Secondly, on this basis and other representations and facts, the commission permitted the leases to be included in the rate base.

Thirdly, Panhandle in an application for certificates of convenience and necessity had represented to the commission that it held these gas leases.

The court said that the commission's argument proved too much, and continued:

If it prevails, a gas company which had had commission action on its rate base could never sell an outworn truck nor an obsolete drilling machine without getting commission approval. It would, likewise, be compelled to take to the commission every proposed transfer of a 10-acre gas lease in exchange for another, no matter how obviously desirable the transfer might be in collecting its holdings in a contiguous area instead of having them scattered. In other words, by this process, it seems to us, the commission will have taken over the area of regulation of facilities for gas production which by express terms of § 1 of the statute were to be excluded from commission regulation.

*Federal Power Commission v. Panhandle Eastern Pipe Line Co.*

## PROGRESS OF REGULATION

### Telegraph Company Properly Refused Service Used To Transmit Race Track Information

**T**HE Western Union Telegraph Company was upheld in its refusal to restore interstate service to a person engaged in transmitting race track news from eastern states to California. Recipients of the news were said to be bookmakers using the news in making racing bets. This would result in the telegraph company supplying service which violated California law.

The Federal Court of Appeals for the Ninth Circuit affirmed a district court judgment denying an injunction against the telegraph company. The complainant asserted that transmission of such news was a legitimate business under a California decision, *People v. Brophy* (1942) 49 Cal App 2d 15, 120 P2d 946.

The court said that for the purposes of its decision it might assume that, so far as concerned the complainant, he was engaged in a legitimate business in sending race track news from eastern tracks. Nevertheless, said the court:

The telegraph company was notified by the attorney general for California, in writing, that such illegitimate use of the drops was being made in several cities in California and by the sheriff of Kern county, California, that such use was being made in the city of

Bakersfield, California. McBride does not complain that the places of such illegal misuse are not sufficiently described, but that the statement of the notices of illegal use are not substantiated. We do not agree that the notifying officers are required to supply to the telegraph company the probative facts to be adduced in court in the trial of the cases of violation stated in the notices.

McBride contended that the company should be required to "continue" to supply facilities. He argued that the company should disregard notices of enforcement officers because they concerned a past wrongdoing and it should treat his cause of action as beginning anew litigation for the supplying of telegraphic and drop services which the company refused.

The effect of this, said the court, would make nugatory a regulation of the company relating to discontinuance of service at the request of enforcement agencies. A new illegal use would follow, to be stopped only long enough for the bringing of another suit. The processes of law violation would continue indefinitely with only minor stoppages by an impotent attorney general. *McBride v. Western Union Teleg. Co.*



### Direct Sales of Interstate Gas Not Regulated As Public Utility Service

**T**HE Illinois commission ended a proceeding which it had begun to investigate the public utility status of Mississippi River Fuel Corporation. It held that, under the particular circumstances disclosed, direct sales of interstate gas, under contract, to local industries and public utilities was not a public utility service subject to regulation under Illinois law.

There appeared to be no question, said the commission, that the transportation of gas from Louisiana and Texas and bulk deliveries made to two Illinois utility companies were in interstate op-

eration within the control of the Federal Power Commission. The operation of selling gas directly to twenty-five industries was, however, a matter that, under the Natural Gas Act, was not subject to regulation by the Federal Power Commission.

It appeared to be a transaction which, under the opinion in the case of *Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission* (1947) 332 US 507, 71 PUR NS 97, was an operation in interstate commerce, but, nevertheless, a matter as to which the state might exercise regulation in the event

## PUBLIC UTILITIES FORTNIGHTLY

Federal authority had not occupied the field.

These direct sales were negotiated about nineteen years ago, before passage of the Natural Gas Act, and were not in connection with any operations which were then regarded as of a public utility nature or subject to regulation of either a state or Federal commission. Both buyer and seller of gas fairly intended a private sale of a commodity.

The company is, in effect, carrying on today substantially the same business with substantially the same customers to whom it undertook to sell supplies of gas nineteen years ago. The sales were not made pursuant to any grants of certificates of convenience and necessity, grants of the power of eminent domain, nor in contemplation of general develop-

ment of gas business. The commission said:

The commission is of the opinion that it has general jurisdiction over the sales of gas, either by pipe-line companies or local distributing companies, to the public in this state. Nevertheless these particular sales, by reason of the manner of their original negotiation, their subsequent history, and the circumstances under which they were negotiated, are considered and found not to be a service to the public within the meaning of § 10 of the Commerce Commission Act. The commission expresses no opinion as to what the situation might be should the company undertake to expand its direct sales or what the situation might be with respect to any other company where the circumstances of the sales and their history are different from that here present.

*Illinois Commerce Commission v. Mississippi River Fuel Corp. (No. 36128).*



### Higher Construction Costs Support Claim For Further Telephone Rate Increase

THE Georgia commission authorized the Southern Bell Telephone & Telegraph Company to make a further increase in rates, but in a smaller amount than the company had itself established following commission and court rulings in its rate controversies.

The state supreme court, in 75 PUR NS 471, upheld company claims to more revenue. The company construed a lower court decision, following the supreme court ruling, as authorizing it to establish its own rates without specific authority from the commission or from the court for the particular rates it chose to establish.

The commission decided that those rates were excessive and that a lower schedule of rates would provide sufficient revenue to meet current operating expenses, pay interest on debenture indebtedness, and provide a reasonable return on equity capital invested in the company. The commission also decided that the company should refund to subscribers the difference between the rates collected under its own increased schedules and the rates approved by the

FEB. 17, 1949

Georgia Public Service Commission.

The evidence showed that a return of 5½ per cent on invested capital would represent an annual return of approximately 5.19 per cent on original cost of plant less accrued depreciation reserve. This calculation was made by excluding from invested capital funds held for the use of the company by the American Telephone and Telegraph Company which had not been advanced to the subsidiary for expenditures. The commission explained:

It is the opinion of the commission that a fair and proper return should be provided on the entire invested capital of the company but that such return should not include a return on capital which is allegedly being held for the use of the company, but which has not been advanced to it and is not represented by any of the outstanding securities of the company.

A witness for the company testified at some length as to the effect of increased construction costs and resulting increased average investment per telephone resulting from the higher cost of providing service to new subscribers. He asserted that construction costs were at a

## PROGRESS OF REGULATION

very high level and far above the average cost of construction of the company's entire property.

He testified that the effect of new construction at current high costs and at the current rate of construction expenditures resulted in an annual decrease in the rate of return of approximately one-half per cent per annum. The commission said:

This does not appear entirely illogical and would seem to indicate that a slightly higher rate of return should be prescribed for the future than that indicated necessary for a past twelve months' period.

Rates prescribed by the commission will provide approximately \$1,483,000 more gross revenue than rates in effect prior to the company's established schedule. After giving effect to taxes and other items they will produce a return of approximately 5.65 per cent on net average investment. This, said the commission, appeared adequate and

reasonable for a rate of return.

Chairman McDonald, in a dissenting opinion, noted that the majority had reduced by \$1,500,000 the rates which the company "arbitrarily and without authority" put into effect, but he dissented because he believed that the record and every consideration of equity demanded a reduction of more than \$2,000,000. He said that the majority had treated liberally the wholly owned subsidiary of American Telephone and Telegraph Company, the world's most powerful and prosperous utility.

Especially he felt that the company should not be rewarded for "the utter failure to meet its obligation to provide telephone service for would-be subscribers" and its failure to provide service in rural areas. *Re Southern Bell Teleph. & Teleg. Co. (File No. 19315, Docket No. 8970-A).* (For earlier commission decision see 75 PUR NS 221.)



## Court Approves Dissolution of Holding Company

A UNITED STATES DISTRICT COURT approved as fair and equitable the amended plan of dissolution of the Northern States Power Company (Delaware). The Securities and Exchange Commission had approved the plan and had applied to the court for its enforcement. The plan provided for the issuance of reclassified common stock of Northern States Power Company (Minnesota), its subsidiary, and for the distribution of approximately 78 per cent of these shares to the preferred stockholders of the holding company to be dissolved and 22 per cent to its common stockholders.

All of the holding company's preferred stockholders and one of the common stockholders objected to the plan. The court observed that the only controversial question presented was a factual issue. That was whether or not there was a rational basis for the commission's estimate of future earnings applicable to the presently outstanding common stock of the subsidiary.

The preferred stockholders maintained that the commission made two fundamental errors in estimating the subsidiary's prospective earnings. They contended that the commission failed to give due consideration to the effect of the subsidiary's plan to fund its pension system at annual cost for a period of at least twenty years on the net revenues of the company, and, secondly, that the subsidiary is committed to an expansion program involving large expenditures requiring additional financing. It was said that the commission gave insufficient weight to the dilution in the per share common stock earnings which would result from the issuance of this additional common stock.

The court rejected these contentions, saying:

It palpably would be erroneous to presume that the expansion program will produce no additional net revenue, although the operating ratio will undoubtedly increase. Moreover, it is unthinkable that the Minnesota company would launch upon a construction program of this magnitude without the as-

## PUBLIC UTILITIES FORTNIGHTLY

insurance that the venture will increase the net revenues of the company.

The historical earnings of the company for the past twenty years were cited by the preferred stockholders as the only safe guide for the future. The court held otherwise. It felt that these earnings reflected the depression period, wartime earnings, the impact of the excess profits tax, and many other conditions which

over the period of years had had a direct effect upon the net revenues of the company. In citing the fact that we are now going through a period of unprecedented prosperity in the area served by the utility and its subsidiaries, the court held that one cannot assume that this condition will continue. *Re Northern States Power Co. (Delaware) et al. 80 F Supp 193.*



### Free Fire Protection Service Eliminated

**A**N examination of the rates of a municipal water utility by the Wisconsin commission resulted in its issuing an order permitting a general increase to allow a return of 4 per cent.

A nominal service charge was sub-

stituted for free fire protection service for private customers connecting to the city water mains so that more equitable distribution of the utility's readiness-to-serve cost would be effected. *Re Bloomer (2-U-2804).*



### Neither Reproduction Cost Nor Original Cost Controls Rate Base

**T**HE Indiana commission rejected contentions that it should not consider reproduction cost new as a yardstick in finding a rate base. On the other hand, it rejected a contention that the only yardstick the commission could use was that of original cost depreciated.

The commission agreed that to use the reproduction cost new theory, which was said to be at best highly speculative, would not be a sound rule, particularly in view of the fact that this would establish valuation of the property at the highest possible level.

On the other hand, the commission continued, it would be just as false to restrict consideration to the use of the original cost depreciated theory as the one and only measure of utility property

valuation, that probably being the lowest valuation that could be considered.

The Indiana Utility Act does not contemplate that the commission limit its consideration to either theory, said the commission. The act contemplates that the commission will not be bound by any one theory of valuation. It provides that the commission shall value all property used and useful, giving such consideration as it deems appropriate in each case "to all bases of valuation which may be presented or which the commission is authorized to consider." The act further provides that as an element in determining value the commission may also take into account reproduction costs at current prices, less depreciation. *Re Indiana Gas & Water Co., Inc. (No. 21042).*



### Rate Contract Not Broken by Making Lower Rate Contracts for Others

**A**N industrial consumer of gas tried unsuccessfully to recover from the Atlanta Gas Light Company the differ-

ence between rates paid by this consumer and rates charged other industrial consumers. The court of appeals of Georgia

## PROGRESS OF REGULATION

decided that the company had not broken its contract with the consumer and there was no ground for recovery because of discrimination.

The company, several years ago, prescribed Industrial Rate No. 4, which was available to any industrial consumer. Then this customer entered into a contract undertaking to take gas for industrial use. It was agreed that the customer should pay a rate then or thereafter on file with the commission known as rate No. 4, provided that no rate should exceed the rate prescribed or approved by the commission.

Later the company entered into special arrangements with various industrial users by which it sold gas to them at rates less than those prescribed by rate No. 4. The gas company, according to the court, was not liable for a breach of the contract even though it made such contracts with other industrial users and filed them with the commission. There

was no other rate specifically and expressly prescribed by the commission for the complaining consumer and it had paid no higher rate than that specifically prescribed for it.

Assuming for the sake of argument that a utility company could be liable for breach of duty not to discriminate where a lesser charge to one of a class was authorized or acquiesced in by the rate-making body, said the court, the great weight of authority was to the effect that the measure of damage is not the difference in rates but the actual damage suffered in competitive business.

There was said to be no Georgia statute giving a right of action for difference in rates. The court concluded with the statement that this action was not for damages by reason of unjust discrimination suffered in competitive business but only for the difference in rates. *Columbia Baking Co. v. Atlanta Gas Light Co.* 50 SE2d 382.



### Higher Rate for Electric Heating Not Discriminatory

CUSTOMERS using electricity for house heating protested to the Montana commission against an increase in large volume electric rates. Their first contention was that no public hearing had been held and that they were not given an opportunity to protest against the increase. The commission met the contention with this terse statement:

Under the provisions of § 3891 RCM 1935, changes in rates may be made after concurrence of the commission and upon the filing of the new rates in the manner prescribed. There is no requirement in the statute which makes a hearing mandatory but the question of whether a hearing is to be held rests in the discretion of the commission. The new rates were properly approved by the commission.

For a second claim the customers said that actions and representations of the company in regard to the permanency of the rate for electricity for house heating precluded it from increasing the rates. This is technically referred to as estoppel.

The commission pointed out that no contract establishing utility rates can

abridge the right and duty of the commission to fix rates. Since the utility could not agree by an express contract that its rates would remain constant, it is evident, the commission said, that it could not do the same thing by implication as estoppel. The commission added that the evidence indicated that the company never had represented that its rates were permanent.

The final objection to the rate increase was that it was discriminatory in that persons using over 1,000 kilowatt hours per month were charged a higher rate for the excess than for the first thousand kilowatt hours.

The commission pointed out that the company was submitting the present schedule because a one-cent rate for heating was not compensatory and it wanted to discourage house heating by electricity. The commission answered the objection with this statement:

It is proper to charge different rates for different uses as, for example, residence and commercial or residence and specified uses,

## PUBLIC UTILITIES FORTNIGHTLY

like hot water heaters or heating. It is likewise proper to make steps in the rate based on probable average use as in this case. From the facts, it may be assumed that most customers using in excess of 1,000 kilowatt hours are using electricity for purposes other than ordinary domestic residential use. . . . We believe the reasons given were ade-

quate to support the proposal and that the resulting rates are fair, reasonable, and non-discriminatory.

*Residents of Ravalli County v. Montana Power Co. (Docket No. 3666, Order No. 2048).*



### Other Important Rulings

THE supreme court of Arizona held that a municipal plant's attempt to exact from an applicant for service a \$50 deposit or bond not required of others and a refusal, unless this requirement was met, to grant him the utility service accorded his neighbors constituted unjust discrimination. *Wickenburg v. Sabin*, 200 P2d 342.

The Indiana commission dismissed a petition by an individual to require a railroad to grant permission for the construction of a private crossing over tracks of the railroad. The commission said that the rights of the parties as concerned the private crossings are determined by statute and are outside the jurisdiction of the commission. *Re Melton (No. 20439)*.

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*Public Utilities Reports (New Series)* are published in five bound volumes annually, with an Annual Digest. These Reports contain the cases preprinted in the issues of PUBLIC UTILITIES FORTNIGHTLY, as well as additional cases and digests of cases. The volumes are \$7.50 each; the Annual Digest \$6.00. *Public Utilities Reports* also will subsequently contain in full or abstract form cases referred to in the foregoing pages of "Progress of Regulation."

ALABAMA PUBLIC SERVICE COMMISSION

Re Mobile Gas Service Corporation

Docket 11845  
November 29, 1948

**A**PPPLICATION for authority to create new trust indenture and to issue debentures; granted.

*Security issues, § 44 — Public interest — Investors — Customers.*

The public interest involved in a proceeding to secure approval of security issues embraces not only the interest of security holders but also involves the ability of the utility to meet its obligation to provide adequate service at reasonable rates at all times to its customers.

**APPEARANCES:** For petitioner: Maurice White, President, Mobile Gas Service Corporation; B. D. Williams, Vice President, Mobile Gas Service Corporation; Sam M. Johnston, Attorney, for petitioner, Mobile.

By the COMMISSION: The petition in this cause was filed with the Commission on the 17th day of November, 1948.

Due notice of the filing of the petition and of the time and place fixed for hearing same was given to the public in accordance with applicable statutes and the rules and regulations of the Commission.

A public hearing on the petition was held by the Commission in accordance with such notice at its offices in Montgomery, Alabama, commencing at 8:30 A. M. on November 24, 1948.

The petition seeks authority to issue under a new trust indenture dated as of December 1, 1948, debentures in the principal amount of \$1,000,000, due December 1, 1968, which are to bear interest at not more than 4 per cent per annum and to sell the same

for not less than the principal amount thereof, and accrued interest thereon from December 1, 1948, to the date of purchase.

The proceeds received from the sale of such debentures, together with such other funds of petitioner as may be necessary, are to be used (a) to retire a promissory note made by petitioner, dated September 30, 1948, in the amount of \$150,000, payable to the Chase National Bank, New York, New York, and bearing interest at the rate of 2 per cent per annum and to pay the expenses of the transaction described in this petition; (b) and to pay for the extension and improvements of its gas distribution system, the issuance of said securities being necessary in order to provide a part of the funds needed by the corporation to finance its construction program for the years 1948 to 1952, inclusive, to meet the growing demand for natural gas throughout the territories served by petitioner and to expand the service area of petitioner.

On the hearing, petitioner present-

## ALABAMA PUBLIC SERVICE COMMISSION

ed considerable evidence as to its investment, income, cash requirements and the effect of the proposed refinancing, together with the history and development of petitioner's utility business and the cost and value of its property. The testimony is that while the trust indenture has not yet been completely worked out, it will contain general conditions obtaining in present-day trust indentures of this character, including provisions for a sinking fund, but will not constitute a lien upon the property of petitioner. A tentative draft of the proposed trust indenture is filed herein. The petition sets out that the debentures will mature on December 1, 1968.

The Commission, while giving consideration herein to the evidence as to cost and value of petitioner's property, does not at this time make a final determination of either such cost or value.

The Commission is of the opinion that the proposed security issues by petitioner are reasonable and proper in the light of all the circumstances involved and should be approved.

It cannot be reasonably overlooked that, in any proceeding of this character, the public interest involved embraces not only the interest of those who now are, or may hereafter become, the holders of the securities of petitioner, but also involves the ability of the utility to meet its obligations thereafter under the law to provide adequate service at reasonable rates at all times to its customers.

In passing upon any such application as that before us, this Commission must give due consideration to the entire public interest to be affected,

and this we have done in this report and order.

After full and careful consideration of the petition and the evidence herein, the Commission, being fully advised in the premises, is of the opinion, and finds that such security issues are:

A. For lawful objects within the corporate purposes of said utility, namely, the refunding of petitioner's bonded indebtedness and provision for the construction or acquisition of additional property;

B. Compatible with the public interests;

C. Necessary, appropriate for, and consistent with the proper performance by petitioner of its service to the public as such utility and will not impair its ability to perform that service; and

D. Reasonably necessary and appropriate for such purposes.

### ORDER

The premises considered:

It is *ordered* by the Commission:

1. That petitioner is hereby authorized to execute and deliver a new trust indenture to The Merchants National Bank of Mobile, a corporation, as trustee, to secure the present issuance of \$1,000,000 principal amount of debentures, maturing December 1, 1968, at an interest rate not to exceed 4 per cent per annum, said debentures to be sold at not less than the principal amount thereof, and accrued interest thereon, from December 1, 1948, to the date of purchase.

2. Petitioner is hereby authorized to use the proceeds from the sale of such debentures for the retirement of petitioner's said promissory note in

## RE MOBILE GAS SERVICE CORP.

the sum of \$150,000, dated September 30, 1948, bearing interest at the rate of 2 per cent per annum, payable to the Chase National Bank, New York, New York; to pay the expenses incurred by the corporation in connection with the transaction described in this petition, and to pay for the extension and improvements of its gas distribution system, said funds being a part of the funds needed by petitioner to finance its construction program for the years 1948 to 1952, inclusive, to meet the growing demand for natural gas throughout the territories served by petitioner and to expand the service area of petitioner.

3. That petitioner file with the Commission promptly after the execution thereof a copy of the trust indenture securing the debentures herein authorized to be issued; that the purchaser of said debentures who may purchase the same at private sale shall be under no obligation to ascertain the net amount of proceeds obtained by petitioner from said debentures, or to ascertain the compliance by peti-

tioner with any other provisions of this order, this order being, as far as the purchaser is concerned, full authority for petitioner to issue and sell, or otherwise dispose of, said debentures.

4. That petitioner make reports to this Commission within ninety days from the date of this order showing in detail the disposition of the debentures and if not disposed of within such time, petitioner shall, by the end of every 90-day period thereafter, make reports until such complete disposition is made, and such reports shall be made in the detail and form prescribed by the Commission.

5. That petitioner, within ninety days from the date of the issuance of the securities herein authorized, submit to the Commission the interest to be made to reflect the adjustments of its account incident thereto.

Jurisdiction hereof is retained by the Commission for the purpose of making such other and further orders herein as may be found to be reasonable, necessary, and proper.

Abco Moving & Storage Corporation

v.

New York Telephone Company

193 Misc 96, 83 NYS2d 448

May 25, 1948

**M**OTION by subscriber for temporary injunction restraining telephone company from refusing acceptance of advertisement in classified directory; denied. Order unanimously affirmed in (1948) 274 App Div 779, 81 NYS2d 146; motion for leave to appeal denied in (1948) 274 App Div 823, 81 NYS2d 457.

*Public utilities, § 117 — Telephone company — Obligation to accept directory advertising.*

A telephone company is not performing an essential public service in including advertising in its classified directory and cannot be compelled to accept an advertisement.

**APPEARANCES:** Zelby & Burstein & Reich, of New York city (Herbert Burstein, of New York city, of counsel), for plaintiff; Ralph W. Brown, of New York city (Irving W. Young and Jordan R. Bassett, both of New York city, of counsel), for defendant.

**PECORA, J.:** Plaintiff seeks an injunction to restrain defendant pendente lite from refusing acceptance of plaintiff's advertisements in the classified telephone directories. No clear right to such relief has been demonstrated. In my opinion, the telephone

company in publishing a classified directory does not perform an essential public service except with respect to ordinary listings therein. As to advertisements the position of a telephone company is analogous to that of the publisher of a newspaper or magazine. Furthermore, the refusal to accept the advertisements has not been shown to be arbitrary. Defendant has submitted sufficient facts to show that it acted reasonably in so refusing because of recent events involving the president of plaintiff corporation in connection with a similar business. Motion is denied.

TENNESSEE COURT OF APPEALS

Southern Bell Telephone & Telegraph  
Company  
v.  
Railroad and Public Utilities Commission  
et al.

— Tenn App —, — SW2d —  
August 28, 1948

PETITION by telephone company for interlocutory injunction to restrain enforcement of Commission order suspending company's revised tariffs for intrastate service and keeping existing rates in effect pending final determination of appeal; granted. For lower court decision, see (1948) 74 PUR NS 150, and for Commission decision, see (1947) 72 PUR NS 264.

*Appeal and review, § 13 — Proper appellate court.*

1. The court of appeals and not the supreme court has jurisdiction over an appeal by the Commission from a decree of chancery court enjoining the Commission from enforcing an order prohibiting a utility from putting in effect a new rate schedule, p. 105.

*Courts, § 2 — Jurisdiction of court of appeals — Injunctive powers.*

2. The court of appeals has the power to issue all writs and process necessary for the exercise and enforcement of its jurisdiction, even though it has no original but only appellate jurisdiction, p. 106.

*Courts, § 2 — Power of court of appeals.*

3. The Tennessee court of appeals has power to issue injunctions, to appoint receivers, and to issue all process necessary to effectuate its jurisdiction, p. 106.

*Appeal and review, § 73 — Scope of powers of appellate court — Injunction.*

4. The court of appeals, having acquired jurisdiction of the subject matter of a proceeding between a utility and a Commission, and of the parties when the Commission appealed from a lower court order enjoining it from interfering with a new rate schedule filed by the utility, has the power to issue an injunction similar to that which was issued by the lower court but vacated by the Commission's appeal, in order to protect the rights of the parties and prevent irreparable injury or a miscarriage of justice pending the appeal, p. 107.

*Rates, § 247 — Rate-making power of utility and Commission.*

5. A telephone company has the right to put its revised tariffs into effect, subject, however, to the Commission's power to suspend them and to deter-

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mine whether they are just and reasonable and, if not, to fix rates which would be just and reasonable, p. 108.

### *Rates, § 2 — Character of rate making.*

6. The fixing of rates is a legislative act but one which is subject to judicial review, p. 108.

### *Rates, § 190 — Presumption of validity.*

7. There is a presumption that rates which have been established by the Commission are valid, and a complaining party has the burden of proving that such a rate is illegal, unjust, or unreasonable, p. 108.

### *Appeal and review, § 49 — Scope of judicial review — Rate order.*

8. An appeal from a Commission order to a court of equity, to determine whether the Commission's action has transcended the constitutional limits of the legislative sphere and whether the rates established by it are confiscatory, has a wide scope, and the court is not bound to accept Commission findings although supported by substantial evidence, but must exercise its own independent judgment upon both the law and the facts, p. 108.

### *Appeal and review, § 25 — Scope of review — Injunctive decree of chancellor.*

9. An injunctive decree of the chancellor is presumably valid, and while it is reviewable by the court of appeals de novo, such review is only upon the assignments of error of the appellant, who has the burden of showing the decree to be erroneous, p. 109.

### *Injunction, § 37 — Injunction pending appeal.*

10. The court of appeals, in determining whether an interlocutory injunction should issue, is governed by the rules of equity practice which govern a chancellor in determining whether a preliminary injunction should be issued, p. 109.

### *Injunction, § 38 — Interlocutory decree — Practice.*

11. An interlocutory injunction will usually be granted where the questions presented are grave and the injury to the moving party will be certain and irreparable if the application be denied and the final decree be in his favor, while if the injunction be granted the injury to the opposing party, even if the final decree be in his favor, will be inconsiderable, or may be adequately indemnified by a bond, p. 110.

### *Injunction, § 38 — Interlocutory injunction pending appeal.*

12. An interlocutory injunction was awarded restraining the Commission from interfering with a newly filed rate schedule where the record indicated that the utility would lose a substantial sum of money while awaiting a determination of the Commission's appeal from a lower court decision that rates allowed by the Commission were confiscatory and where the utility could be required to protect consumers by filing a bond to insure proper refunds in case the Commission order should be upheld upon appeal, p. 110.

### *Injunction, § 45 — Confiscatory rate order — Injunction pending appeal.*

13. Upon a prima facie showing by a utility that a Commission rate order is confiscatory, an interlocutory injunction should be issued upon such terms as will protect both the utility and public pending a determination of the controversy and the establishment of just and reasonable rates, p. 111.

### *Return, § 50 — Confiscation.*

14. Confiscation is effected as well by the refusal to increase rates up to the level of compensation as by reducing them below that level, p. 112.

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*Injunction, § 45 — Rate fixing by court — Confiscatory rates.*

15. The court's use of its injunctive power, where Commission established rates appear to be confiscatory, does not constitute rate making or an interference with the Commission's statutory authority, but is merely the exercise of the inherent power of equity to grant relief upon such terms as will make the relief effective, pending settlement of the rate controversy and the establishment of just and reasonable rates, p. 112.

FELTS, J.: The appellee, Southern Bell Telephone & Telegraph Company, has filed in this court a petition for an interlocutory injunction to restrain enforcement of an order of appellant Railroad and Public Utilities Commission which suspended the company's revised tariffs for intrastate service and kept in effect the existing rates. The ground of the petition is that these rates are confiscatory and the company will suffer irreparable injury pending this appeal unless the injunction is granted.

From the record before us it appears that the existing rates were fixed by the Commission a number of years ago. There has been no overall increase in them since 1923. Since 1939 there has been a great upsurge of prices, the costs of materials and equipment have increased from 25 per cent to 159 per cent, and wages have spiraled upward. In May, 1947, following a strike, the company granted further wage increases, which added \$920,000 more per year to the operating expenses of its intrastate service in this state.

On June 10, 1947, pursuant to Code § 5451(d), the company filed with the Commission a schedule of increased tariffs for intrastate telephone service, both toll and exchange, to become effective August 1, 1947. This was an over-all average increase of 16.27 per cent in the rates, and was

estimated to add \$4,000,000 more to the gross revenue of the company.

The company submitted the figures as to its current intrastate operating expenses and revenues, showing that under the old rates, due to the great increases in its expenses, it was suffering operating losses of approximately \$3,500 per day, or \$1,295,000 per year; and that the new rates were necessary to afford it emergency relief but would yield a return of only 4.93 per cent on its intrastate net average investment.

The Commission entered an order June 19, 1947, suspending the company's revised schedule of rates until September 9, 1947. On July 3rd, the company moved the Commission to modify its order so as to put the new rates into effect August 1st, upon the company giving a bond to refund to its customers the difference, if any, between the new rates and what might ultimately be determined to be just and reasonable. The Commission overruled this motion July 28, 1947.

On July 31st, the company brought suit in the chancery court, Part II, of Davidson county to enjoin the Commission from interfering with the company's putting the new rates into effect August 1st, upon the execution of a proper refunding bond. A preliminary injunction issued. Upon the application of the Commission a justice of our supreme court superseded

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the injunction August 5th. This because Code § 5451(d) authorized the Commission to suspend the revised tariffs filed June 10th, for three months, and the chancellor had no power to enjoin such suspension during that time (see opinion filed August 5, 1947). That suit seems to have been withdrawn.

On September 8th, the Commission issued a second order further suspending the revised tariffs until November 7th. A hearing before the Commission on the merits was begun September 8th and concluded September 26th. On November 6, 1947, 72 PUR NS 264, the Commission announced its findings and entered an order denying any increase in the rates. It struck out \$3,137,498 of the company's annual operating expenses, and thus reached the conclusion that no rate increase was warranted.

On December 1, 1947, the present bill was brought by the company against the Commission and each of its members in the chancery court, Part II, of Davidson county. It was filed in a twofold aspect. It presented a case for a review of the Commission's orders by certiorari under Code §§ 8989-9018; and it also alleged a case of confiscation calling for relief under the court's original equity jurisdiction.

It alleged, upon the uncontradicted evidence before the Commission, that a fair return for the intrastate service by the company would be 6.66 per cent on its intrastate net average investment; that its revised tariffs would yield a return of only 4.93 per cent on such investment; that under the existing rates the company was suffering operating losses of approximately

\$3,500 a day, or \$1,295,000 a year; and that the Commission's order keeping these rates in effect was confiscatory and constituted a taking of the company's property without due process, in violation of Art I, § 8, of the Constitution of Tennessee and of § I of the Fourteenth Amendment to the Constitution of the United States.

Among other reliefs, the bill prayed that upon a hearing a preliminary injunction issue restraining enforcement of the order of the Commission and restraining its members from interfering with the company's collection of its revised tariffs, upon its execution of a proper refunding bond; that on the hearing the injunction be made final; and that the order of the Commission be adjudged illegal and void.

It appears that there was no hearing on the application for a preliminary injunction and no preliminary injunction issued. The defendants filed a lengthy answer denying practically all of the material allegations of the bill. The record made before the Commission was certified to the chancery court; and it was stipulated that the evidence offered before the Commission should stand as the proof in this cause.

The hearing before the chancellor was begun April 19 and concluded April 21, 1948. On June 17th, 74 PUR NS 150, the chancellor filed his opinion embracing his findings of fact and conclusions of law. He considered in detail each of the items of the company's operating expenses which had been disallowed by the Commission. He found that all of them were supported by the uncontradicted evidence and that there was no evidence

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to support the Commission's disallowance of any of them.

He also found that the revised tariffs would produce a return of about 4.93 per cent on the company's intrastate net average investment (a lower rate base than the fair value of its property used and useful in rendering the service); that therefore the revised tariffs were not excessive or unreasonably high; that there was no evidence to support the Commission's denial of an increase in rates; and that its order requiring the company to continue operating at the existing rates was confiscatory.

The chancellor accordingly entered a decree June 23, 1948, adjudging the order to be confiscatory, contrary to the Fourteenth Amendment to the Constitution of the United States and to Art I, § 8, of the Constitution of Tennessee, and therefore illegal and void. The decree enjoined the Commission and each of its members from taking any steps to enforce the order or to enforce any penalties against the company for not complying with it.

The Commission indicated it would appeal. Its appeal would vacate the court decree and continue its own order in effect. So the company moved the chancellor to enter an order keeping the injunction in force pending the appeal. He overruled this motion, holding that such an order would itself be vacated by the appeal, because Code § 10553, authorizing the chancellor to continue an injunction in effect on appeal, applies only to a preliminary injunction that "is or has been dissolved," not to a final injunctive decree.

The Commission moved for a new trial, its motion was overruled, and it

saved a bill of exceptions and perfected its appeal, no bond being required. The transcript was filed here June 30th, and the cause placed on our docket for hearing at our next session. Also on June 30th the company filed this petition for an interlocutory injunction.

In addition to the foregoing, the petition stated that the evidence before the Commission and the chancellor covered the period of the company's intrastate operations up to March 31, 1947; that since then the results show that its operating losses have increased from \$1,295,000 to \$1,852,389 per year, or more than \$5,000 per day; and that the revised tariffs, instead of producing the return of 4.93 per cent found by the chancellor, would produce only 3.98 per cent per annum on the net intrastate average investment.

The Commission filed an answer denying that its order was confiscatory or otherwise illegal, denying that the company was suffering any loss, averring that its combined operations (both intra- and inter-state) showed a profit, and denying all the other material averments of the petition. On July 2nd this application for an interlocutory injunction was heard before this court. Counsel made oral arguments, later both sides filed full briefs, and the record was passed to the court. The court took time for consideration.

[1] Able counsel for the Commission insist that the jurisdiction of this appeal is in the supreme court and not in this court; that even if this court has jurisdiction of the appeal it has no jurisdiction to grant the injunction here sought; and that if it has

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such jurisdiction it ought not to exercise it and ought not to grant the injunction.

We think the jurisdiction of this appeal is in this court rather than the supreme court. This question, we think, has been settled by decisions of our supreme court by which we are bound.

Code § 10618, apportioning appellate jurisdiction, gives this court jurisdiction of "all civil cases except"—specifying particular exceptions one of which is cases "involving constitutional questions." Thus jurisdiction of all civil cases in this court is the rule and jurisdiction in the supreme court is the exception. The legislative policy has been to relieve the burdens of the supreme court, and the tendency has been strictly to construe the exceptions. *Woodroof v. Nashville* (1946) 183 Tenn 483, 489, 192 SW 2d 1013, 1015; *Tennessee C. R. Co. v. Pharr* (1946) 183 Tenn 658, 194 SW2d 486.

The *Woodroof Case* held that Code § 9015, providing for appeals to the supreme court in certiorari cases for review of actions of the Commission and other administrative bodies, was in conflict with, and must give way to, Code § 10618; and that therefore jurisdiction of appeals in such cases was in this court and not the supreme court.

In the *Pharr Case*, *supra*, 194 SW 2d at p. 488, the railway complained of a freight rate fixed by the Commission. One of the grounds was that the Commission's action "violated Art I, § 8, of the Constitution of Tennessee, and the Fourteenth Amendment of the Constitution of the United States in that petitioner was de-

prived of its property without due process of law." The railway appealed to the supreme court on the theory that the case involved a constitutional question.

That court, however, held that this issue of due process was not a constitutional question in the sense of the statute (§ 10618), and that the jurisdiction was not in that court but in the court of appeals, and accordingly remanded the case to this court, and we disposed of it. *Tennessee C. R. Co. v. Pharr* (1946) — Tenn App —, 198 SW2d 289.

[2] While this court has no original jurisdiction and its jurisdiction is appellate only, it has the power to issue all writs and process necessary for the exercise and enforcement of its jurisdiction. Code § 10637. A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders necessary to preserve the subject of the litigation, to secure the fruits thereof to the successful party, and to prevent a miscarriage of justice. 2 Am Jur, Appeal and Error, § 9, p. 850; Annotation, 133 ALR 1105.

[3] This court, like our supreme court, has the power to issue injunctions, to appoint receivers, and to issue all process necessary to effectuate its jurisdiction. *Kerr v. White* (1874) 66 Tenn 394; *Cockrill v. Peoples Savings Bank* (1927) 155 Tenn 342, 357, 293 SW 996; *Chaffin v. Robinson* (1948) — Tenn —, 213 SW2d 32; *State v. Nashville Trust Co.* opinion of court of appeals filed May 1, 1948, unreported; *Darling Shops of Memphis-Nashville v. Gray, Davidson Equity*, opinion filed May 3, 1943.

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In the Cockrill Case, *supra*, the supreme court issued a temporary injunction, in advance of a hearing on the merits, to restrain a trustee's sale of complainant's property. Chief Justice Green there pointed out that while the court had to try the case on the record made below, it could look to matters happening since the trial below in order to protect its jurisdiction, to prevent such jurisdiction from being trifled with or rendered ineffectual.

In the Chaffin Case, *supra*, the court of appeals entered a perpetual injunction restraining the unsuccessful party from trespassing upon the successful party's land. Several years later a petition was filed in this court averring that subsequent purchasers had violated this injunction and asking that they be punished for contempt. We thought this would be an exercise of an original rather than appellate jurisdiction.

The supreme court, however, held that it was not, and remanded the case to this court for further proceedings. That court based its decision largely upon the idea that Code § 10637, applicable in terms to the supreme court, was equally applicable to this court, and empowered it to issue "all writs and process necessary for the exercise and enforcement of its jurisdiction."

In the Darling Shops Case, *supra*, upon the bill of an alleged lessee, a preliminary injunction was granted restraining the lessor from prosecuting an action of unlawful detainer. Upon defendant's preliminary motion the special chancellor, in advance of a hearing on the merits, dissolved the injunction, adjudged that complain-

ant had no lease, ordered a reference to fix defendant's damages, and denied complainant's prayer for an appeal. Defendant procured a judgment in the unlawful detainer action.

In the meantime, upon complainant's application for certiorari, a member of this court reversed the chancellor's action, issued a temporary injunction restraining defendant from taking further steps to enforce a writ of possession, and remanded the cause for a hearing on the merits. Upon such hearing the regular chancellor, though much impressed by complainant's equity, dismissed his bill and dissolved the injunction.

He appealed to this court, and in advance of a hearing on the merits, a member of this court issued a temporary injunction restraining defendant from enforcing a writ of possession pending the appeal, this being necessary to preserve the court's jurisdiction of the subject matter and to secure the fruits of the litigation to the successful party.

[4] It is argued, however, that the present application is either an effort to have this court review the chancellor's denial of the injunction pending the appeal, or an effort to have this court exercise original jurisdiction; and that if it is the former, it should await a hearing of the appeal on the merits; and if it is the latter, this court has no power to act.

We think it is neither. The chancellor, after a full hearing on the merits, found this a proper case for an injunction, and entered a final injunctive decree. The Commission had a right to appeal, and was under a duty to do so, believing the decree erroneous. But its appeal vacated the de-

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cree and continued its own order in effect. As the chancellor held, he was powerless to continue in effect any part of his decree pending the appeal.

But this court, having acquired jurisdiction of the subject matter and of the parties by the Commission's appeal, has both the power and the duty to determine whether an injunction, like that ordered by the chancellor's decree, ought now to issue in order to protect the rights of both parties and prevent irreparable injury, or a miscarriage of justice, pending this appeal. In Gibson's Suits in Chancery (3rd ed.) § 1300, it is said:

"When an equity cause goes to an appellate court, it stands there, in many respects, as it stood in the chancery court before the hearing, and the powers of the appellate court in the cause are very similar to, if not identical with, those of the chancery court at the hearing, except the former court has, in addition, full power to revise any interlocutory ruling, order, or decree. If, therefore, while the cause is pending in the appellate court, any party is entitled under the rules of chancery practice, to have a receiver appointed, or a restraining order issued, the court will exercise the jurisdiction, provided all persons to be affected are parties to the cause in which the motion is made. . . ."

Learned counsel for the Commission argue that rate making is not a judicial but a legislative function, which is vested exclusively in the Commission; that neither the utility nor the courts have any right directly or indirectly to interfere with the Commission's rate-making authority; and that this application by the company for an interlocutory injunction

really amounts to a request for this court to fix rates, which it has no power to do.

We need not undertake a discussion of the respective rôles of the utility, the Commission, and the courts in a controversy like this. It is enough merely to outline them.

[5] At common law a public utility had the power to fix its rates. In respect to intrastate rates it still has this power, subject to the regulatory powers conferred on the Commission by our statutes. By Code § 5451(d) the company had the right to put its revised tariffs into effect, subject to the Commission's power to suspend them and to determine whether they were just and reasonable and, if not, to fix rates which would be just and reasonable. *Cumberland Teleph. & Teleg. Co. v. Tennessee R. & Public Utilities Commission* (1921) 287 Fed 406, 412; *O'Brien v. Public Utility Com'rs*, 92 NJL 44, PUR1919B 865, 105 Atl 132, 134. Construing the New Jersey statute upon which our statute is modeled, *Memphis v. Enloe*, 141 Tenn 618, 627, PUR 1919F 508, 214 SW 71.

[6-8] It is true the fixing of rates is a legislative act but it is subject to judicial review. It is also true that when the Commission has fixed a rate, there is a presumption that it is correct, and the complaining party has the burden of proving that it is illegal or unjust and unreasonable. *Kentucky-Tennessee Light & P. Co. v. Dunlap* (1944) 181 Tenn 105, 55 PUR NS 399, 178 SW2d 636; *Tennessee C. R. Co. v. Pharr* (1946) — Tenn App —, 198 SW2d 289.

There are two different modes of judicial review of the action of the

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Commission: (1) the ordinary one by certiorari, as provided by Code §§ 8989-9018, to determine whether the Commission has acted in excess of the power conferred upon it by our statutes, or whether there is any evidence to support its findings; and (2) the one in which a court of equity, in the exercise of its original jurisdiction, is called upon to determine whether the Commission's action has transcended the constitutional limits of the legislative sphere—whether the rate fixed is confiscatory.

In the former the scope of judicial review is much narrower, and the the court is bound by the Commission's findings of fact if there is any substantial evidence to support them. *Tennessee C. R. Co. v. Pharr*, *supra*, and cases there cited. But in the latter, the court is not bound to accept such findings, though supported by substantial evidence, but must exercise its own independent judgment upon both the law and the facts. *St. Joseph Stock Yards Co. v. United States* (1936) 298 US 38, 80 L ed 1033, 14 PUR NS 397, 56 S Ct 720; *United R. & Electric Co. v. West*, 280 US 234, 251, 74 L ed 390, 409, PUR 1930A 225, 50 S Ct 123, and cases there cited.

The learned chancellor did that in this case. He found that the revised rates were just and reasonable, that there was no evidence to support the Commission's action, that its order requiring the company to continue operating at the existing rates was confiscatory, unconstitutional and void, and should be enjoined.

[9] The chancellor's decree comes to this court supported by the presumption that it is correct. While it

is reviewable here de novo (Code §§ 9036 and 10622), such review is only upon appellants' assignments of error according to rules of appellate practice which put upon appellants the burden of showing the decree to be erroneous (*Williams Code*, Vol. VII, pp. 526-531, *Supreme Court Rules* 14 and 15; *id.* pp. 546-549, *Court of Appeals Rules* 11 and 12). *McCalla v. Rogers* (1938) 173 Tenn 239, 116 SW2d 1022; *Joest v. John A. Denie's Sons Co.* (1939) 174 Tenn 410, 416, 126 SW2d 312, 314.

[10] This court, in determining whether an interlocutory injunction should issue, is governed by the rules of equity practice (*Gibson's Suits in Chancery*, 3rd ed § 1300) which govern a chancellor in determining whether a preliminary injunction should issue (*id.* § 833). They have been stated and applied in numerous cases like the one before us.

A leading case is *Oklahoma Nat. Gas Co. v. Russell*, 261 US 290, 67 L ed 659, PUR1923C 701, 703, 43 S Ct 353. There the Commission denied the gas companies an increase in rates. The Constitution of Oklahoma empowered the supreme court of that state, acting legislatively, to substitute a different order and to grant a supersedeas in the meantime. The companies appealed to the state supreme court. That court denied supersedeas, leaving the appeals still pending. The companies filed a bill in the Federal district court alleging confiscation and seeking a temporary injunction. That court denied relief. Its action was reversed by the Supreme Court of the United States. Speaking for the court, Mr. Justice Holmes said:

"Coming to the principal question,

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if the plaintiffs respectively can make out their case, as must be assumed for present purposes, they are suffering daily from confiscation under the rate to which they are now limited. They have done all that they can under the state law to get relief and cannot get it. If the supreme court of the state hereafter shall change the rate, even nunc pro tunc, the plaintiffs will have no adequate remedy for what they may have lost before the court shall have acted. *Springfield Gas & E. Co. v. Barker* (1915) 231 Fed 331, 335."

In the case there cited with approval, *Springfield Gas & E. Co. v. Barker*, *supra*, at p. 334, the gas company filed a suit in equity alleging confiscation and seeking a temporary injunction. The court granted the injunction. It said:

"When the questions to be ultimately decided are serious and doubtful, the legal discretion of the judge in granting the writ should be influenced largely by the consideration that the injury to the moving party will be certain, great, and irreparable if the motion is denied, while the inconvenience and loss to the opposing party will be inconsiderable, and may well be indemnified by a proper bond, if the injunction is granted."

[11] To the same effect: *Prendergast v. New York Teleph. Co.* 262 US 43, 51, 67 L ed 853, 858, PUR 1923C 719, 43 S Ct 466; *Louisville v. Louisville Home Teleph. Co.* (1922) 279 Fed 949, 956; *Monroe Gas Light & Fuel Co. v. Michigan Pub. Utilities Commission*, PUR 1923E 661, 292 Fed 139, 144.

"Where the questions presented by an application for an interlocutory injunction are grave, and the injury to

the moving party will be certain and irreparable if the application be denied and the final decree be in his favor, while if the injunction be granted the injury to the opposing party, even if the final decree be in his favor, will be inconsiderable, or may be adequately indemnified by a bond, the injunction usually will be granted. *Love v. Atchison, T. & S. F. R. Co.* (1911) 107 CCA 403, 185 Fed 321, 331, 332." *Ohio Oil Co. v. Conway* (1929) 279 US 813, 815, 73 L ed 972, 973, 49 S Ct 256.

We think this applies to the case before us. According to the chancellor's findings, which we must now presume to be correct, the revised tariffs are reasonable, the existing rates are confiscatory, and the Commission's order kept in force by its appeal is causing the company to suffer operating losses which, upon the evidence before us, amount to \$3,500 per day, and, according to the sworn petition, have now risen to over \$5,000 per day.

If the interlocutory injunction is not granted, the company will continue to suffer these large losses each day until this appeal can be finally determined, which in the usual course will take several months. Then if the company is successful, as it was below, it will have no remedy to recoup the losses suffered pending this appeal. If the Commission should then fix compensatory rates, it would have no authority to make them retroactive, and the company's losses would be great and irreparable.

[12] On the other hand, if the injunction is granted upon proper bond, it will neither infringe the Commission's statutory authority nor cause

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irreparable injury to the users of the company's intrastate telephone service. The Commission will still be free to proceed and perform its duty of fixing just and reasonable rates (Code § 5451(d)); and the bond will fully protect such users and insure proper refund to them in the event the chancellor's decree should be finally reversed and the Commission's order upheld.

Such being the balance of the equities in favor of the relief sought, we are constrained to grant it. In no other way can the rights of all parties be protected and irreparable injury to one of them prevented pending this appeal. We have no discretion except a discretion controlled by the fixed rules of law and equity (Gibson's Suits in Chancery, § 833, note 37, and cases there cited); and the well-settled rule requires the issuance of an interlocutory injunction in a case like this.

[13] In such cases it has long been the established rule of courts of equity to grant interlocutory injunctions upon proper refunding bonds. Upon a prima facie showing of confiscation the injunction issues upon such terms as will protect both the utility and the public pending a determination of the controversy and the establishment of just and reasonable rates. This rule is supported by numerous decisions. Indeed, they are too numerous to permit a review of them or even a reference to all of them. We cite some of the leading ones.

Among such decisions of the Supreme Court of the United States are the following: Oklahoma Nat. Gas Co. v. Russell, 261 US 290, 67 L ed 659, PUR1923C 701, 43 S Ct 353; Prendergast v. New York Teleph. Co.

262 US 43, 67 L ed 853, PUR1923C 719, 43 S Ct 466; Bluefield Water Works & Improv. Co. v. West Virginia Pub. Service Commission, 262 US 679, 67 L ed 1176, PUR1923D 11, 43 S Ct 675; Smith v. Illinois Bell Teleph. Co. 270 US 587, 70 L ed 747, PUR1926C 754, 46 S Ct 408; Ohio Oil Co. v. Conway (1929) 279 US 813, 73 L ed 972, 49 S Ct 256; Central Kentucky Nat. Gas Co. v. Kentucky R. Commission (1933) 290 US 264, 78 L ed 307, 3 PUR NS 384, 54 S Ct 154; West v. Chesapeake & P. Teleph. Co. (1935) 295 US 662, 79 L ed 1640, 8 PUR NS 433, 55 S Ct 894.

Some of the leading decisions of the lower Federal courts are: Springfield Gas & E. Co. v. Barker (1915) 231 Fed 331; Louisville v. Louisville Home Teleph. Co. (1922) 279 Fed 949; Monroe Gas Light & Fuel Co. v. Michigan Pub. Utilities Commission, PUR1923E 661, 292 Fed 139; Louisiana Water Co. v. Missouri Pub. Service Commission, PUR1924C 293, 294 Fed 954; Joplin Gas Co. v. Missouri Pub. Service Commission, PUR1924D 137, 296 Fed 271; Augusta-Aiken R. & Electric Corp. v. South Carolina R. Commission, PUR 1923A 213, 281 Fed 977; Trautwein v. Moreno Mut. Irrig. Co. (1927) 22 F2d 374.

The following are some of the leading decisions of state courts of last resort: People's Gas Light & Coke Co. v. Slattery (1939) 373 Ill 31, 31 PUR NS 193, 25 NE2d 482; Public Service Commission v. Indianapolis Railways (1947) 225 Ind —, 70 PUR NS 480, 72 NE2d 434; Public Service Commission v. Indianapolis Railways (1948) — Ind —, 74 PUR NS

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265, 76 NE2d 841; Southern Bell Teleph. & Teleg. Co. v. Public Service Commission (1948) — Ga —, 75 PUR NS 471, 49 SE2d 38.

[14] Some of the above cases involved orders reducing rates; the others, orders refusing to increase rates. The principal is the same in both classes. Confiscation is effected as well by refusing to increase rates up to the level of compensation as by reducing them below that level. "Property may be as effectively taken by long-continued and unreasonable delay in putting an end to confiscatory rates as by an express affirmance of them." (Smith v. Illinois Bell Teleph. Co. *supra*, 270 US at p. 591, PUR1926C at p. 758.)

To the same effect: Oklahoma Nat. Gas Co. v. Russell, *supra*; Augusta-Aiken R. & Electric Co. v. South Carolina R. Commission, *supra*; Joplin Gas Co. v. Missouri Pub. Service Commission, *supra*; Public Service Commission v. Indianapolis Railways, *supra*; Southern Bell Teleph. & Teleg. Co. v. Public Service Commission, *supra*.

[15] Nor does the court's use of its injunctive power in such cases constitute rate making or interference with the Commission's statutory authority. It is but the exercise of the inherent power of equity to grant relief upon such terms as will make the relief effective, pending settlement of the rate controversy and the establishment of just and reasonable rates. Smith v. Illinois Bell Teleph. Co. *supra*; Public Service R. Co. v. Public Utility Comrs. PUR1921E 632, 276 Fed 979, 990; Augusta-Aiken R. & Electric Co. v. South Carolina R. Commission, *supra*; Joplin Gas Co. v.

Missouri Pub. Service Commission, *supra*; Trautwein v. Moreno Irrig. Co. *supra*; Public Service Commission v. Indianapolis Railways, *supra*, 74 PUR NS at p. 268, 76 NE2d at p. 843.

So the application for a temporary injunction is granted. An interlocutory order will be entered by this court prescribing the conditions on which the injunction will be issued and stating the terms of the injunction.

The company shall post a bond in the sum of \$2,000,000 with security to be approved by the clerk, conditioned to refund to the users of its intrastate telephone service in this state the difference between its increased schedule of tariffs filed by it June 10, 1947, and the rates which may be finally determined to be just and reasonable. The bond shall be payable to the state of Tennessee for the use and benefit of such users and shall be so conditioned that the Commission may maintain suit or suits thereon for the benefit of all or any of such users. The company shall keep complete and itemized records and books showing the increases paid by each user of its intrastate telephone service under its schedule of increased tariffs, so that in the event it shall be held that such increases shall be refunded, the refunds shall be promptly and expeditiously made to those entitled thereto.

Upon compliance by the company with the foregoing conditions, an interlocutory injunction will be issued enjoining and restraining the Commission and each of its members from taking any steps to enforce its order of November 6, 1947, 72 PUR NS 264, enjoining and restraining them from

SOUTHERN BELL T. & T. CO. v. RAILROAD AND PUB. UTIL. COM.

interfering, or attempting to interfere, with the collection by the company of rates and charges in accordance with its schedule of increased tariffs, and enjoining and restraining them from taking any steps to enforce any penalties against the company for its collection of rates and charges in ac-

cordance with its schedule of increased tariffs; this injunction to remain in force and effect pending the final determination of this appeal. Such an order may be submitted by counsel.

Howell, J., concurs.

Hickerson, J., concurs.

FEDERAL POWER COMMISSION

Re General Crude Oil Company

Docket No. G-1140

November 10, 1948

**A**PPPLICATION for status determination and declaratory order that oil company is not a natural gas company subject to Commission jurisdiction; order granted.

Gas, § 2.1 — Commission jurisdiction — Production and gathering.

An independent producer and gatherer of natural gas making an arm's-length sale of natural gas to a "natural gas company" upon completion of the production and gathering, is not a natural gas company subject to the jurisdiction of the Federal Power Commission.

(BUCHANAN, Commissioner, dissents.)

By the COMMISSION: On October 11, 1948, General Crude Oil Company (applicant), a Delaware corporation authorized to do business in the state of Texas and with an office in Houston, Texas, filed an application pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure for a status determination and a declaratory order that said applicant is not a "natural-gas company" as defined in the Natural Gas Act and that its proposed acts and operations, as described hereinafter, will not be subject to the jurisdiction of the Commission.

The application states that applicant owns 1.9236739 per cent of the

estimated total gas reserves in the Silsbee field, Hardin county, Texas, and is the operator of 3 oil wells and owns an interest in a number of gas wells which are operated by others therein. It is further stated that applicant and three other gas producers in the Silsbee field have entered into a contract with Texas Eastern Transmission Corporation under which each producer sells individually its gas to Texas Eastern Transmission Corporation as the gas is produced and processed through a gasoline plant to be located in the Silsbee field. One of the other gas producers, as plant operator for itself and for applicant and

## FEDERAL POWER COMMISSION

the other two gas producers, is presently constructing such plant, and deliveries of gas under the aforementioned contract are expected to commence prior to January 1, 1949. The proposed point of sale and delivery to Texas Eastern Transmission Corporation of such gas is at the discharge side of the plant.

Texas Eastern Transmission Corporation heretofore has been held to be a "natural-gas company" within the meaning of the Natural Gas Act by Commission order dated October 10, 1947, in Docket No. G-880.

Applicant is not affiliated directly or

indirectly with Texas Eastern Transmission Corporation by ownership of stock or otherwise.

Upon the above facts, as presented in the application filed herein, and pursuant to § 03.79 of the Commission's General Rules, the Commission finds:

The sale as proposed by applicant, General Crude Oil Company, is an arm's-length sale of natural gas by an independent producer and gatherer made upon completion of production and gathering, and therefore the transaction is within the purview of said rule.

## UTAH PUBLIC SERVICE COMMISSION

### Re Gunnison Telephone Company

Case No. 3325  
November 12, 1948

**A**PPPLICATION for authority to increase telephone rates; increased rate schedules approved.

*Payment, § 33 — Service denial to enforce.*

1. It is not in the interest of a telephone company or the telephone-using public to follow a policy of discontinuing service in cases of slow or delinquent payments when the area served consists of small communities in which practically all the residents are acquainted with each other and a resort to service denial creates difficult public relations, p. 117.

*Payment, § 53 — Discount for promptness.*

2. A discount for prompt payment of telephone bills was approved, as it would facilitate collection of accounts and minimize losses normally occurring upon failure to pay monthly bills, p. 117.

*Rates, § 541 — Telephone — Communities distant from central plant.*

3. Service to communities situated approximately six miles distant from the town where the central plant of a telephone company is located justifies an additional charge, p. 117.

*Rates, § 534 — Telephone — Special line.*

4. A flat charge for service over a single telephone line running to a reservoir for the sole use and benefit of a reservoir company was held to be justified by reason of the cost of such maintenance, p. 118.

# RE GUNNISON TELEPHONE CO.

*Valuation, § 21 — Rate base determination — Old and new plant — Inadequate records.*

Discussion of the determination of the rate base of a telephone company which by reason of a large rehabilitation program has a substantial investment in new plant, while its balance sheet plant figure includes the old, superseded plant, but from the record it is unable to determine how much of the investment in old plant will continue to be devoted to service, p. 116.

APPEARANCES: Arthur H. Nielsen, for applicant; W. A. Robinson, for Public Service Commission of Utah.

By the COMMISSION: The above-entitled matter came on regularly for hearing before the Commission at Gunnison city hall, Gunnison, Utah, on October 22, 1948, after due and legal notice had been given as required by law. No one appeared in opposition to the petition, and evidence was adduced by applicant in support of its application for modification of rates to be charged.

From the record in the case and from the evidence adduced at the hearing, the Commission finds as follows:

1. That the applicant, Gunnison Telephone Company, is a corporation organized and existing under and by virtue of the laws of the state of Utah, with its principal place of business at Gunnison, Utah; that it is a public utility and a telephone corporation, subject to the jurisdiction of this Commission under the pertinent statutes and regulations.

2. That the applicant is engaged in rendering and maintaining telephone service to its patrons in the communities of Gunnison, Centerfield, Mayfield, Fayette, and Axtell, including surrounding territories, all situated in Sanpete county, state of Utah; that said corporation has been engaged in

such activity for more than twenty-five years last past.

3. That by its petition on file herein the applicant seeks authority to adjust its rates charged for telephone rental service within the areas which it serves, which adjustment consists of an increase over the present rates now authorized and charged as follows:

## (Gunnison and Centerfield)

Business	Present		Proposed		Dis-count	Net
	Rate per Month	Rate per Month	Rate per Month	Rate per Month		
One-party .....	\$2.50	\$4.25	.25	\$4.00		
Two-party .....	none	3.75	.25	3.50		
Extension .....	none	1.25	none	1.25		
Additional outlet	none	.25	none	.25		
Extension bell..	none	.25	none	.25		
Residence						
One-party .....	\$1.50	\$2.75	.25	\$2.50		
Two-party .....	1.50	2.50	.25	2.25		
Four-party .....	1.50	2.25	.25	2.00		
Extension .....	none	1.00	none	1.00		
Additional outlet	none	.25	none	.25		
Extension bell..	none	.25	none	.25		

Installation Fee: Present business rate is \$3.00; proposed \$3.50; present residence \$2.50; proposed \$3.00.

Business	Present		Proposed		Dis-count	Net
	Rate per Month	Rate per Month	Rate per Month	Rate per Month		
Multiple party	\$2.50	\$3.60	.25	\$3.35		
Residence						
Multiple party	\$1.50	\$2.60	.25	\$2.35		

Note: Charge for extension, additional outlet, extension bell, and installation fee shall be the same as that charged for Gunnison and Centerfield. Local toll shall be charged for the entire system of 10¢ per call, which is the present rate.

A flat rate of \$8.25 less 25¢ is to be charged for the single line running to the Gunnison Reservoir at Sterling, Utah.

4. That the present rates charged

## UTAH PUBLIC SERVICE COMMISSION

by the applicant, as set forth in the preceding paragraph, have been in force and effect for more than twenty-five years; that during such time the telephone company has operated a magneto system, which dates back to the organization of the company; that commencing about October, 1947, the Gunnison Telephone Company commenced a complete overhauling of all of its telephone lines and system, which consists of approximately 50 miles of telephone lines serving approximately 314 subscribers. The magneto system, together with all of the telephone sets, has been replaced with a Kellogg relaymatic dial system, together with 319 dial telephones of either the wall or handset type, more than 26,000 feet of outside drop wire and approximately 6,000 feet of inside wire. A new cable has been run from Gunnison to Centerfield containing 50-pair cable for approximately two-thirds of a mile, 25-pair cable for approximately one mile, and 16-pair cable for approximately one mile. The balance of the cable installed consists of 5- and 2-pair cable for approximately one mile. More than two and one-half miles of messenger strand have been replaced. The rehabilitation of the system represents a total cost to the applicant of \$31,211.67. It further appears that applicant will be required to have invested in supplies approximately \$1,000, and to have about \$1,000 available in the form of cash working capital, making a total of \$2,000 working capital required for the operations of the company.

At December 31, 1947, the company's balance sheet reflected an investment in utility plant of \$26,910.76, and a depreciation reserve of \$20,-

608.28. The plant figure does not include the cost of any part of the new system described above. On the other hand, the plant figure at December 31, 1947, includes the old, superseded plant, the cost of which must be credited to the plant account and charged to the depreciation reserve in order to remove the retired plant from the accounts. It appears that after the proper entries have been made to remove the cost of the retired plant from the plant account a substantial part of the \$26,910.76 figure will be gone. Likewise, the available depreciation reserve probably will be absorbed in making the retirement entries.

The old plant which is still in service consists of the brick building used for housing the central office equipment, materials and supplies, and the general office, including the land on which such building is situated; poles; the rural lines running to Mayfield, Fayette, and Axtell; and protective equipment and part of the inside wire on the system.

It appears, therefore, that the applicant has an investment in plant used and useful in rendering telephone service in excess of \$31,211.67. The figure of \$31,211.67 represents only the cost of the new plant recently constructed. From the record we are unable to determine how much of the investment in old plant will continue to be devoted to telephone service. There is practically no depreciation accrued on the investment in new plant.

5. That under the proposed exchange rates and based upon the continuance of present subscribers, together with present revenues from long-distance and toll charges, the es-

## RE GUNNISON TELEPHONE CO.

timated operating results for the year 1949 are as follows:

Exchange revenues .....	\$ 8,936
Toll revenues .....	3,038
Miscellaneous revenues .....	290
<b>Total revenues .....</b>	<b>\$12,264</b>
Operating expenses .....	7,923
Taxes .....	1,200
Depreciation .....	937
<b>Total expenses .....</b>	<b>\$10,060</b>
<b>Net operating income .....</b>	<b>\$ 2,204</b>

The above item of depreciation represents one year's accrual at 3 per cent on the investment of \$31,211.67 in new plant. The figure does not include any depreciation expense on that part of the old property still in service for the same reason as noted above in the discussion of the investment in remaining old plant. It follows, therefore, that if the depreciation expense item shown above included provision for annual depreciation on that part of the old plant investment still in service, the net operating income would be lower than the amount indicated.

6. That a return of \$2,204 will not result in an unreasonably high rate of return to the applicant. In this connection we wish to point out that we are unable, on the basis of the record, to fix a rate base for the reasons described above. However, if we take the investment in new plant of \$31,211.67 plus a working capital allowance of \$2,000 (covering both materials and supplies and cash working capital) as a base, a return of \$2,204 results in a rate of return of 6.64 per cent. Our comments on this subject are not to be construed as meaning that we think \$33,211.67 is necessarily a correct rate base figure. As

noted above, some part of the old plant is still in service but we cannot determine at this time the extent of the investment in this category. The part of the investment in old plant still devoted to telephone service, less the accrued depreciation, should be given consideration in arriving at a rate base.

[1, 2] 7. That the experience of the applicant has established that a considerable saving in collection expense may be had by authorizing a discount to its patrons for prompt payment; that the area served by the applicant consists of small communities in which practically all of the residents are acquainted with each other, and resort to discontinuance of telephone service as a means of enforcing payment of delinquent telephone bills creates difficult public relations between the management of the company and its patrons; that because of the limited number of telephone subscribers it is not in the interest of the company or the telephone-using public to follow a policy of discontinuing service in cases of slow or delinquent payments; that the discount proposed is reasonable, and will facilitate collection of the accounts and minimize losses which normally occur upon failure to pay monthly bills; that the company has at all times rendered its statements in the month following that in which the service was performed, rather than collecting for such service in advance.

[3] 8. That the communities of Mayfield, Fayette, and Axtell are each situated approximately 6 miles distant from the town of Gunnison, where the central plant of the company is located; that the telephone lines running to these communities are at pres-

## UTAH PUBLIC SERVICE COMMISSION

ent limited, thereby requiring multiple-party service rather than one-, 2-, or 4-party service; that in lieu of additional charge for mileage maintenance in connection with the outlying areas, applicant has proposed to charge an additional amount for the services to such communities; that the service thus rendered justifies the difference in rates to be charged between such communities and Gunnison and Centerfield.

[4] 9. That the single line running from Gunnison to the reservoir at Sterling, Utah, is maintained solely for the use and benefit of the Gunnison Reservoir Company, and is not at present serving any other parties, so that a flat charge as proposed is justified by reason of the cost of such maintenance.

10. That the proposed rates will be reasonable, and that the applicant should be permitted to file a new tariff containing the proposed rates set forth in the foregoing report, such new rates to become effective so as to be included in the next billing of the company subsequent to the date of this order.

On the basis of the foregoing report, findings of fact, and conclusions,

It is hereby *ordered*, that the application of Gunnison Telephone Company for an adjustment in the rates to be charged for telephone service by said company at Gunnison, Centerfield, Fayette, Utah, and surrounding vicinity be, and the same hereby is, granted in accordance with the application.

It is *further ordered*, that Gunnison Telephone Company may file on not less than ten days' notice to the Commission and the public, new rate schedules providing for the proposed rates set forth in the foregoing findings, such new rates to become effective so as to be included in the next billing of the company subsequent to the date of this order.

It is *further ordered*, that the new rate schedules shall bear the following notation:

"Issued on not less than ten days' notice to the Commission and the public, by authority of order of Public Service Commission of Utah dated November 12, 1948, Case No. 3325."

SECURITIES AND EXCHANGE COMMISSION

Re Middle West Corporation

File No. 70-1851

Re Doyle, O'Connor & Company

File No. 31-559

Release No. 8421

August 11, 1948

**A**PPPLICATION for approval of holding company's sale of its entire common stock holdings in a subholding company to an investment banking company; denied.

*Consolidation, merger, and sale, § 35 — Stock holding in subsidiary — Detriment to regulation.*

1. A holding company was not allowed to sell its entire holdings in its subsidiary holding company, going through liquidation, to an investment company where the contract of sale was conditioned on the entry of a Commission order exempting the purchaser as a holding company from the requirements of the Holding Company Act, since such approval would result in a shift of control of the liquidation process from a registered holding company to an exempted company, p. 121.

*Consolidation, merger, and sale, § 33 — Stock holding in subsidiary — Required dissolution of subsidiary.*

2. A holding company should not be allowed to sell its entire holdings in its subsidiary holding company, going through liquidation, to an investment banking company where the sale would be detrimental to the carrying out of provisions of § 11 of the Holding Company Act, 15 USCA § 79k, requiring the dissolution of the subsidiary holding company, the continued existence of which unduly and unnecessarily complicates the structure of the holding company system of which it is a member and unfairly and inequitably distributes voting power among the security holders of the system, and where the denial of the proposed sale would not be materially disadvantageous to the holding company, p. 122.

*Intercompany relations, § 19.24 — Holding company status — Exemption under statute.*

Statement that an investment banking company, upon acquiring a holding company's entire stock holdings in its subsidiary holding company, would not be granted an exemption from the Holding Company Act under § 3(a)(3) of the act, 15 USCA § 79c(a)(3) where its proposed interest in the holding company system would be approximately equal to its interest

## SECURITIES AND EXCHANGE COMMISSION

in the investment banking business and there would be no functional relationship between the public utility business of the subholding company and the investment business, p. 123.

**APPEARANCES:** Ralph D. Stevenson and Ove B. Dendtler, for the Middle West Corporation; William C. Mulligan, of Winston, Strawn & Shaw, for Doyle, O'Connor & Company; M. Morton Weinstein, of the Division of Public Utilities of the Commission.

By the COMMISSION: The Middle West Corporation ("Middle West"), a registered holding company, has filed a declaration, pursuant to the Public Utility Holding Company Act of 1935, regarding the proposed sale by Middle West of its entire interest (consisting of 56 per cent of the common stock of United) in United Public Service Corporation ("United"), also a registered holding company, to Doyle, O'Connor & Company ("Doyle"), investment bankers, pursuant to a contract dated May 25, 1948, for \$905,063. The contract contained a condition requiring the entry of an order by this Commission, not later than July 7, 1948, approving the sale by Middle West and exempting Doyle as a holding company from the provisions of the act in accordance with an application filed by Doyle under §§ 3 (a) (3) and 3 (a) (5), 15 USCA §§ 79c (a) (3), (5).<sup>1</sup>

Middle West proposed the sale as a step in compliance with the Commission's order of January 24, 1944,<sup>2</sup> issued pursuant to § 11 (b) (1) of the act, 15 USCA § 79k (b) (1), requiring, among other things, that Middle

West dispose of its interest in United. Middle West stated that its stockholders, on August 8, 1947, authorized its dissolution and the sale or distribution of its assets. According to the declaration, the proceeds of the proposed sale would be used to increase Middle West's investment in the common stock of two of its subsidiaries, prior to their distribution to its stockholders.

Because of their relationship, the declaration filed by Middle West and the application for exemption filed by Doyle were, after appropriate notice, set down for a consolidated public hearing which has been held. Briefs and oral argument having been waived, upon consideration of the record we entered an order on July 7, 1948, denying effectiveness to the declaration of Middle West and dismissing the application of Doyle for exemption as a holding company without awaiting the issuance of our findings and opinion herein, which follow:

### *Description of United*

United, a registered holding company, has been in the process of liquidation since 1941 and has already used the proceeds of certain sales to pay liquidating dividends aggregating \$1,468,771, or \$4.80 per share. Its only remaining investment consists of 148,055 shares (40 per cent) of the outstanding common stock of United Public Utilities Corporation ("UPU"), also a registered holding

<sup>1</sup> Because of the brief period of time between the close of hearings and the July 7th date, we were unable to prepare this opinion in time

to accompany our order rejecting the proposals.  
<sup>2</sup> Re The Middle West Corp. Holding Company Act Release No. 4846.

## RE MIDDLE WEST CORP.

company. The corporate balance sheet of United as at March 31, 1948, attached hereto as Appendix A, shows that United's only other asset is \$86,340 of cash.

UPU is also in the process of liquidation. On January 9, 1948, UPU filed a plan pursuant to § 11 (e) of the act providing, among other things, for the retirement of its preferred stock and the immediate cash distribution of \$5 per share (an aggregate of \$1,851,500) to its common stockholders.<sup>3</sup> At present, the subsidiaries of UPU consist of Citizens Heat, Light and Power Company ("Citizens") and three other gas utility companies, all operating in the state of Indiana. UPU has entered into a contract, subject to our approval, to sell its interest in Citizens for \$1,500,000 and to make a further cash distribution of \$4 per share (aggregating \$1,481,200) to its stockholders. The total of the proposed cash distribution by UPU would aggregate \$9 per share of the UPU common stock.

United's equity in the proposed cash distributions by UPU to its common stockholders would amount to \$1,332,495, equal to \$4.35 per share

of United's common stock. Middle West's total equity in such proposed cash distributions amounts to \$749,910. These figures do not include the respective equities of United and of Middle West in the three Indiana subsidiaries of UPU other than Citizens. Preliminary negotiations have been started for the sale of these companies.

### *Compliance with the Act*

[1] The sale by Middle West of its holdings of the common stock of United is subject to the provisions of § 12 (d) of the act, 15 USCA § 79l (d), and Rule U-44 promulgated thereunder. The proposed acquisition by Doyle of these securities requires the approval of the Commission under §§ 9 and 10, 15 USCA §§ 79i, 79j, since by virtue of such acquisition Doyle would become an affiliate of the United subsidiaries.<sup>4</sup> Although Doyle has filed no such application, we must consider the proposed acquisition under the standards of these sections.

Under the standards of these applicable sections, a transaction may not be approved if it would interfere with the carrying out of the provisions of § 11 of the act.<sup>5</sup> The proposed trans-

<sup>3</sup> On July 27, 1948, we entered our order approving this plan, as amended, and an application pursuant to § 11(e) for enforcement is presently pending in the district court of the United States for the district of Delaware. Re United Pub. Utilities Corp. Holding Company Act Release No. 8388.

<sup>4</sup> The applicable portion of § 9 reads as follows:

"Section 9. (a) Unless the acquisition has been approved by the Commission under § 10, it shall be unlawful— (2) for any person, by use of the mails or any means or instrumentality of interstate commerce, to acquire, directly or indirectly, any security of any public-utility company, if such person is an affiliate, under Clause (A) of paragraph (1) of subsection (a) of § 2, § 79b of this title, of such company and of any other public utility or holding company, or will by vir-

tue of such acquisition become such an affiliate."

<sup>5</sup> Pertinent portions of these sections are as follows:

"Section 10. (c) Notwithstanding the provisions of subsection (b), the Commission shall not approve—

(1) an acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of § 8, § 79h of this title, or is detrimental to the carrying out of the provisions of § 11; or

(2) the acquisition of securities or utility assets of a public utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending towards the economical and efficient development of an integrated public utility system.

"Section 12. (d) It shall be unlawful for

## SECURITIES AND EXCHANGE COMMISSION

action is objectionable in the light of this criterion. As heretofore indicated, the United system is in the process of liquidation, and the form of this liquidation has to a great extent already been crystallized in applications filed by UPU, which are in an advanced state of administrative processing. The contract of Doyle with Middle West for the purchase of United stock is specifically conditioned on the entry by this Commission of an order exempting Doyle as a holding company from the requirements of the statute. Thus, an approval of the acquisition on the proposed terms would result in a shift of control of the liquidation process from a registered holding company to a controlling group specifically exempted from the provisions of the act which we cannot consider appropriate at this stage of the liquidation process.

[2] The proposed transaction also raises the question whether a sale by Middle West of its interest in United is an appropriate means of compliance with the standards of § 11. The statutory policy expressed in that section requires the termination of the existence of any company whose continued existence unduly or unnecessarily complicates the structure of the holding company system of which it is a member, or unfairly or inequitably distributes voting power among the security holders of such system. The record indicates that United performs no essential function and is merely a cor-

porate shell interposed between UPU and Middle West. Further, the existence of United makes it possible for the holder of the 56 per cent Middle West interests in that company to control the UPU system, though the Middle West holdings in United represent only approximately a 22 per cent interest in UPU. The evils of continuing such unnecessary pyramiding are in sharp conflict with the purposes of the statute. For these reasons it would appear that § 11 requires Middle West to comply with the order of January 24, 1944, directing it to dispose of its interest in United, by causing that company to be liquidated and dissolved, and that, accordingly, the proposed transaction is detrimental to the carrying out of the provisions of § 11.

In considering the proposed transaction we have been mindful that Middle West proposes to use the proceeds from the proposed sale, together with other corporate cash, to increase its investment in Kentucky Utilities Company and Wisconsin Power & Light Company, two of its subsidiaries, before making a distribution of the common stocks of these companies. It appears, however, that failure to consummate the proposed sale at this time will not materially interfere with the consummation of this program, since Middle West has ample resources with which to make the required investment in its two subsidiaries and need not rely solely upon the proceeds from the proposed sale. Further, as indicated

any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to sell any security which it owns of any public-utility company, or any utility assets, in contravention of such rules and regulations or orders regarding the consideration to be received for such sale, maintenance of competitive conditions, fees and

commissions, accounts, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder."

## RE MIDDLE WEST CORP.

above, it is expected that as the result of the proposed distribution by UPU an amount of cash representing a substantial portion of purchase price proposed in the instant declaration may reasonably be expected to flow through United to Middle West in the near future. Accordingly, it would seem that a denial of effectiveness to the declaration would not result in any material disadvantage to Middle West.

Our order denying the Middle West declaration rendered moot the application of Doyle for an exemption as a holding company from the provisions of the act, and for that reason our order dismissed that application. It may be noted, however, that had we reached this application on its merits we would have had difficulty in granting the requested exemption, since Doyle does not appear to meet the statutory requirements for an exemption under §§ 3 (a) (3) and 3 (a) (5) of the act. In order to be entitled to an exemption under § 3 (a) (3) a company must show, among other things, that it is only incidentally a holding company. The record shows that Doyle's proposed interest in the United system would be approximately equal to its interest in the investment banking business and that there would be no functional relationship between the public utility business of United and the investment business of Doyle. For these reasons it appears that Doyle would not have satisfied the "incidental" standard of § 3 (a)

(3) and that an exemption would not have been available to Doyle under that section of the act.<sup>6</sup> So far as the application under § 3 (a) (5) of the act is concerned, that section is not applicable since it applies only to essentially foreign holding company systems.<sup>7</sup>

In the light of the foregoing, we were satisfied that the proposed transaction would be detrimental to the carrying out of the provisions of § 11, and for that reason it did not satisfy the standards of §§ 9, 10, and 12 of the act. Accordingly, we entered our order denying effectiveness to the Middle West declaration and dismissing the application of Doyle for an exemption as a holding company.

### APPENDIX A

#### *United Public Service Corporation*

Corporate Balance Sheet as at March 31, 1948

<i>Assets</i>	
Investment in United Public Utilities Corporation—Common Stock, 148,055 shares (39.98%), par value \$1 per share .....	\$148,055
Cash .....	86,340
<b>Total Assets .....</b>	<b>\$234,395</b>
<i>Liabilities</i>	
Capital Stock and Surplus:	
Capital stock, par value 25 cents per share—	
Issued 305,994 shares less 2 shares reacquired .....	\$76,498
Capital surplus .....	157,695
<b>Capital Stock and Surplus ...</b>	<b>\$234,193</b>
Accounts Payable .....	185
Accrued taxes .....	14
<b>Total Liabilities .....</b>	<b>\$234,395</b>
Note: Contingent liabilities approximately \$42,700.	

<sup>6</sup> See *Re Cities Service Co.* (1940) 8 SEC 318, 329, 36 PUR NS 257, 268.

<sup>7</sup> *Ibid* at pp. 332, 334, 36 PUR NS at pp. 271-273.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Albert and Rose Morouse

v.

South Pittsburgh Water Company et al.

Complaint Docket No. 14297

December 13, 1948

**C**OMPLAINT by property owner against refusal of owners of water pipe line and water company to render service; dismissed.

*Public utilities, § 121 — Privately owned water line.*

1. A privately owned water line connecting the water main of a public utility with some twenty-eight residences and the use of this line do not constitute regulated public utility service or facilities as defined by the public utility law, and such line and the rights of using it are private property rights which are not within the jurisdiction of the Commission, p. 126.

*Service, § 184 — Water extension — Economic justification.*

2. A water utility will not be ordered to extend service to an applicant where the cost of the line would be so great that it would not be justifiable or reasonable to require the extension, p. 126.

By the COMMISSION: This complaint is by Albert and Rose Morouse, Post Office address, Broughton, Allegheny county, alleging that John A. Broglie and Joseph Zupancic are the owners of a water pipe line; that they are a public utility; and that South Pittsburgh Water Company (as well as Broglie and Zupancic), has refused to furnish water service to complainants' property unless complainants first obtain permission from Broglie and Zupancic to make a connection to the private pipe line. The complaint further alleges that Broglie and Zupancic have refused to permit com-

plainants to connect their property to the said water pipe line under any terms or conditions and that the aforesaid acts of respondents are in violation of §§ 401, 402, 413, and 920, of the Public Utility Law.

In answer, South Pittsburgh Water Company admits that it refused water service to complainants because the company has no right to interest in the private pipe line that could be tapped to provide service to complainants. The water company avers that complainants may have service by obtaining the written consent of John A. Broglie and Joseph Zupancic for a

## MOROUSE v. SOUTH PITTSBURGH WATER CO.

service connection to and service through their lines.

The answer of John A. Broglie and Joseph Zupancic denies that they are a public utility engaged in the transportation and supply of water to the people in a portion of Snowden township, Allegheny county. They aver that they are the owners of a certain private pipe line which is connected to an 8-inch diameter water main of South Pittsburgh Water Company in Brownsville road and that the said private pipe line furnishes water to the homes of Broglie and Zupancic, to other residential property owned by them, and to the homes of certain other people in the community who paid a portion of the cost of the laying of the said private pipe lines. Respondents deny that their actions are in violation of §§ 401, 402, 413, and 920 of the Public Utility Law, and pray that the complaint be dismissed.

John A. Broglie and Joseph Zupancic are the owners of a development of approximately 10 acres of land in Snowden township, Allegheny county. In 1944, Broglie and Zupancic installed some 3,000 feet of 3-inch and 2-inch diameter pipe to eight properties in and around their development. At the same time, South Pittsburgh Water Company, at the request of Broglie and Zupancic, laid 704 feet of 8-inch diameter pipe from its existing main in Brownsville road, and connected its extension to the smaller private pipe line. In 1947, an additional extension of approximately 1,000 feet of 2-inch pipe line was laid by the developers so that, at present, there are some 28 properties (includ-

ing the eight original properties) attached to the private pipe-line system of Messrs. Broglie and Zupancic, the cost of which approximates \$7,000.

Following the installation of the original 3,000 feet of line, an agreement was executed between the eight property owners and Messrs. Broglie and Zupancic which provided for a payment in advance of \$125 for the privilege of connecting to the private pipe line. It appears that, subsequently, the amount was raised to \$140. The agreement further recites that ownership of the line is to remain permanently with the installers, and one connection per home is permitted. Consumers are not permitted to extend their water service to other premises or individuals without the written consent of the owners of the line.

South Pittsburgh Water Company installed the service connections from the privately owned pipe line to each property for which the owner holds the right to connect thereto. Meters in each property are installed and owned by the water company and payments for water are made to South Pittsburgh Water Company.

An oral agreement between South Pittsburgh Water Company and Broglie and Zupancic provides that the water company will make no service connection from this privately owned line to an applicant for water service until applicant has obtained written permission to connect from Broglie and Zupancic.

Albert Morouse signed the aforesaid agreement in 1945, in order to

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

obtain water service to his restaurant and residence on the west side of Brownsville road and thereupon received service. Morouse constructed a new restaurant and residence in 1946, directly across from his old property, and made application for water service to South Pittsburgh Water Company and Broglie and Zupancic, on March 21, 1946. The water company declined to make the service connection, inasmuch as Mr. Morouse had not obtained the necessary written permission from Broglie and Zupancic to connect this new property.

[1] It appears that this privately owned pipe line takes the status of a long consumer's service connection. Each consumer, after having acquired the right to so use this line, obtains water service to his premises through it from the point of connection with the 8-inch main of South Pittsburgh Water Company, and service to him is measured by the meter in his residence. Therefore, this private line is not owned or used for distributing or furnishing water service to the public for compensation. It is privately owned and was installed for the purpose of conveying water from the point of its receipt from South Pittsburgh Water Company to the point of utilization.

This private line and the use thereof do not constitute regulated public utility service or facilities as defined by the Public Utility Law. The line and the right of use are private property rights which are not within the jurisdiction of the Commission. The matter of complainants obtaining writ-

ten permission to connect, and the charges connected therewith, as well as all other transactions or negotiations for the right to use this privately owned pipe line, are matters of private property right and/or private contract and controversies in such matters are under the jurisdiction of the local courts.

[2] Consideration has been given by South Pittsburgh Water Company to its installation of an 8-inch diameter pipe line, from the end of its existing facilities in Brownsville road, to serve this Morouse property only, and also for the installation of a line to serve this Morouse property plus the twenty-eight properties presently being furnished water service through the privately owned pipe line. The large-sized pipe is necessary for public fire protection service, if and when desired.

The company estimates the cost of an extension of 1,575 feet of main, to furnish water service to Mr. Morouse, at \$7,535.30. The probable additional annual revenue from Mr. Morouse is \$25. For the longer extension of 4,339 feet of 8-inch pipe, required to serve twenty-nine consumers, the cost is estimated at \$27,732.23, which amount includes the 704 feet of 8-inch main laid in Brownsville road by the water company in 1944. Additional annual operating revenues from this extension are estimated at \$700.50. The indicated gross annual revenue from the extensions would be 3/10 of 1 per cent and 2.5 per cent, respectively, of the estimated cost thereof.

We find that it is not now economically justifiable or reasonable to

## MOROUSE v. SOUTH PITTSBURGH WATER CO.

require South Pittsburgh Water Company to extend its facilities and furnish water service to complainants, Albert and Rose Morouse; and it is not within the jurisdiction of the Commission to compel South Pittsburgh Water Company to install a service

connection from the privately owned line to complainants' property, nor to require John A. Broglie and Joseph Zupancic to make water service available to complainants; therefore,

It is *ordered*: That the complaint be and is hereby dismissed.

## MICHIGAN PUBLIC SERVICE COMMISSION

### Re Prescott Telephone Company

T-540-48.1

October 14, 1948

**A**PPPLICATION for authority to increase telephone rates;  
granted.

#### *Return, § 36 — Reasonableness — Adequacy of service.*

The owner of a telephone company is entitled to fair and reasonable compensation for services rendered but service must be commensurate with rates paid, and a company must adopt efficient means to improve its plant and equipment and render efficient service in order to enjoy a continuance of a rate increase granted by the Commission.

By the COMMISSION: At a session of the Michigan Public Service Commission held at its offices in the city of Lansing on the 14th day of October, A. D., 1948.

#### RATE ORDER

A petition was filed July 26, 1948, by the Prescott Telephone Company requesting authority to increase rates for telephone service in its Prescott exchange. This matter was brought on and heard September 13, 1948.

It appears from the petition and tes-

timony taken at the hearing that petitioner requires relief in the matter of its rates for telephone service if it is to continue to give adequate telephone service. The rates presently charged have been unchanged for upwards of twenty-five years and expenses have increased at a greater ratio than the increase in revenue.

While the Commission recognizes that the owner of a utility such as the Prescott Telephone Company is entitled to fair and reasonable compensation for services rendered, yet it is

## MICHIGAN PUBLIC SERVICE COMMISSION

equally true that the service must be commensurate with the rates paid therefor, and the company must adopt efficient means to improve its plant and equipment and must render better and more efficient service in order to enjoy a continuance of the rates granted by this Commission.

The Commission having carefully considered the matter before it, and being advised in the premises finds that the petitioner requires relief in the matter of its rates for telephone service.

Therefore, it is *ordered* that the Prescott Telephone Company is hereby authorized to prepare and furnish to the Commission for approval and filing, revised rate sheets for inclusion in its Schedule of Tariffs M.P.S.C. No. 1, that conform substantially with the proposed sheets attached to the petition, which sheets are by reference made a part of this order.

It is *further ordered* that the Prescott Telephone Company shall report to this Commission not less frequently

than bimonthly beginning November 1, 1948, concerning its plans and activities toward the purchasing and installation of suitable equipment in order to render better and more efficient service and that, unless it shall appear to the Commission that the company is making reasonable and efficient efforts to improve its plant and service, the Commission will give further consideration to the reduction of said rates to a level commensurate with the service being rendered.

It is *further ordered* that the approval given is without prejudice to the power of this Commission at any time on its own motion or on petition of any interested party, to inquire into and investigate the rates, charges, practices, and services hereby approved.

The Commission retains jurisdiction of the matters herein contained and reserves the right to issue such further order or orders as the circumstances may require.



# Industrial Progress

*A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.*



## Public Serv. of Colo. to Spend \$18,300,000 during 1949

PUBLIC SERVICE COMPANY of Colorado has announced a 1949 construction budget of \$18,300,000, as part of its \$63,600,000 five-year construction program.

Expenditures during 1948—the first year of the five-year plan—were \$16,000,000.

Largest item in the 1949 construction program is work on the new Arapahoe plant in Denver, where the first unit of 40,000-kilowatt capacity is to be put into operation in 1950 and a second, similar unit in 1951. Total cost now is estimated at \$17,000,000, of which \$6,100,000 is expected to be spent in 1949.

Also in the plan for 1949 are the expenditure of \$2,500,000 for eight new substations and sixty-seven miles of transmission lines; nearly \$2,400,000 for distribution lines, services, transformers and meters, and more than one million dollars for replacement of existing facilities.

## Four Boiler Feed Pump Sizes Added to Worthington Line

WORTHINGTON PUMP AND MACHINERY CORPORATION announces the addition of four new boiler feed pump sizes to their line of centrifugal pumps. Two of the new sizes are six-inch pumps and two are eight-inch pumps, which add to the range of possible applications for this type of service.

Complete new bulletin on Worthington boiler feed pumps, known as Bulletin W-318-B7E, contains all data and specifications.

## NAM Elects New Officers

THREE executives prominent in the public utility field have begun their service as 1949 officers and members of the board of directors of the National Association of Manufacturers, following their election at the recent 53rd annual Congress of American Industry, held in New York city, and sponsored by the NAM.

Elected national vice president was Don G. Mitchell, president, Sylvania Electric Products, Inc., New York, New York.

Re-elected state director for Utah was George M. Gadsby, president, Utah Power and Light Company, Salt Lake City, Utah. In addition, Ralph J. Cordiner, vice president and assistant to the president, General Electric Company, New York, will continue as a member of the board of directors.

These executives will serve through the

coming year as national and state representatives of the NAM, whose 16,000 members produce 80 per cent of manufactured goods in the United States.

## Construction Program Underway By Gulf States Utilities

THE construction program of Gulf States Utilities Company for the years 1948 to 1952 is estimated to require approximately \$95,580,000.

Construction work is going forward on a new 40,000 kw. extension at the Neches station at Beaumont, Texas, which is scheduled to be in operation by May. An additional unit of 60,000 kw. is expected to be placed in operation in 1951. Another generating unit of 40,000 kw. to be installed at the Riverside station at Lake Charles, Louisiana, should be put in service by August, 1950. Two 40,000 kw. capacity units with necessary boilers are on order for addition to the Louisiana station at Baton Rouge.

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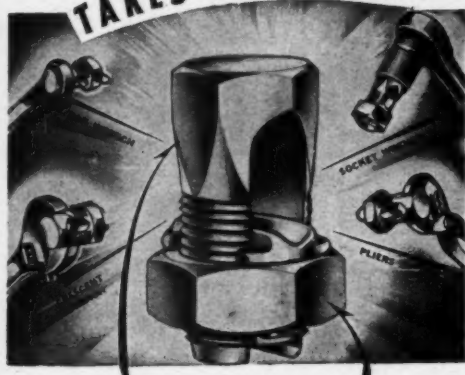
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## G-E Electric Wire and Cable Lines Are Merged

OPERATIONS of the wire and cable divisions of the apparatus and construction materials departments of General Electric have been consolidated, Charles E. Wilson, G-E president, has announced. Overall responsibility for that portion of wire and cable business formerly assigned to the apparatus department, Schenectady, has been transferred to the construction materials department, with headquarters at Bridgeport, Connecticut.

Services of the apparatus department sales organization will be retained for an indefinite period, to handle sales of cables to electric utilities.

B. F. Ilsley, heretofore manager of the apparatus wire and cable division, has been named manager of the expanded wire and cable division.

## South Jersey Gas to Spend \$2,000,000 on Pipelines

SOUTH JERSEY GAS COMPANY of Atlantic City is prepared to spend \$2,000,000 on pipelines to connect with those of Texas Eastern Transmission Corporation as soon as the Federal Power Commission approves its petition to receive 6,500,000 cubic feet of natural gas daily from Texas Eastern.

The 6,500,000 cubic feet of natural gas a day will be used to service consumers in Glassboro, New Jersey, and later in Atlantic City.

It is estimated that the initial cost of constructing a pipeline under the Delaware river and south to Glassboro would be about \$1,000,000. An additional \$1,000,000 would be required to extend the pipeline from Glassboro to Atlantic City. Ultimately it is planned to extend natural gas to other consumers in the company's territory.

## Personnel Changes

### Locke Incorporated

S. P. BRADY has been named Chicago regional manager of Locke Incorporated, manufacturers of insulators, ceramics, and pole line hardware, according to an announcement made by E. M. Haines, vice-president of marketing.

### Taylor Forge & Pipe Works

TAYLOR FORGE & PIPE WORKS, Chicago, announces the appointment of Thomas J. Lingle as western division manager in charge of manufacturing operations at its new Fontana, California, plant. He also will direct west coast sales.

Mr. Lingle formerly was associated with C. F. Braun Company of Alhambra, California, engineers, manufacturers, and constructors of oil refineries and chemical plants, and since 1946 operated his own valve and fittings business in Alhambra.

The Fontana plant of Taylor Forge already has begun production of spiral pipe, and forging operations will begin soon.

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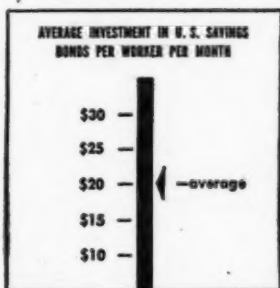
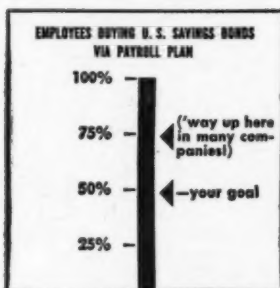
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What we really make is Time



*It is faster to*  
**H**ANG A WALL  
*than to*  
**P**ILE IT UP



LITTLE blocks, say 2"x4"x8", don't pile up very fast.

We hang walls up in sizable panels.

And that is an easy way to understand why Robertson's real product is *time*.

We make walls that are hung in place. We make them complete with insulation when the panels are delivered. We engineer them piece by piece in advance at the factory. We put expert crews on the job to place them.

We make time, now, when time is the essence.

\* Point is, we integrate the right materials with exclusive designs and processes of manufacture, round them out with fast engineering for each individual job, install them with experienced crews, and deliver the thing that is most vital of all vital things today: *speed*.

We save days and weeks in finishing a building *for use*, because years have been put into the development of these unique skills.

*Quick* is the word we practice.

**H. H. ROBERTSON COMPANY**

FARMERS BANK BUILDING, PITTSBURGH, PA.

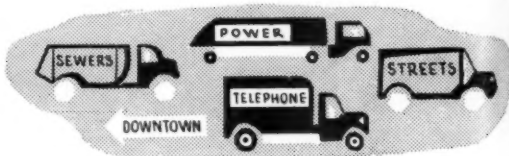


## You carry the tax load in your town!

You have the biggest stake in transit. Let us help you promote sound transit practices. Modern electric transit attracts more people to public transit, greatly reduces traffic congestion. Electrics carry more people faster.



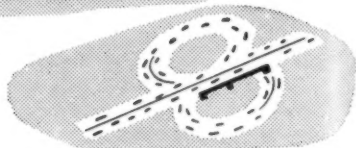
City decentralization—away from traffic jams—requires more generating equipment, new facilities that cost **TAX DOLLARS.**



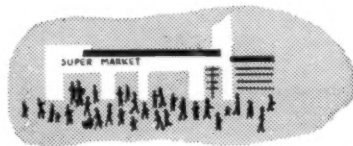
Decentralization also means less business downtown. Property values drop! **TAX RATES CLIMB!**



Million-dollar superhighways and freeways mean **SOARING TAX RATES.**



Modern transit methods use street space most efficiently. That means **LESS** traffic, **MORE** customers, stimulated business!



Apparatus Department, General Electric Company, Schenectady, New York

# GENERAL ELECTRIC

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